PROPOSED AMENDMENTS TO THE HATCH POLITICAL ACTIVITIES ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELECTIONS

OF THE

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH CONGRESS

FIRST AND SECOND SESSIONS

ON

H.R. 696

A BILL TO AMEND THE PROVISIONS OF LAW RELATING TO THE PREVENTION OF PERNICIOUS POLITICAL ACTIVITIES (THE HATCH POLITICAL ACTIVITIES ACT) TO MAKE THEM INAPPLICABLE TO STATE AND MUNICIPAL OFFICERS AND EMPLOYEES, TO PERMIT LIMITED PARTISAN POLITICAL ACTIVITIES BY FEDERAL OFFICERS AND EMPLOYEES IN CERTAIN DESIGNATED LOCALITIES AND FOR OTHER PURPOSES

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UNITED STATES
GOVERNMENT PRINTING OFFICE
53699 WASHINGTON : 1960

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PROPOSED AMENDMENTS TO THE HATCH POLITICAL ACTIVITIES ACT

WEDNESDAY, APRIL 8, 1959

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS OF THE
COMMITTEE ON HOUSE OF ADMINISTRATION,
Washington, D.C.

The committee met, pursuant to notice, at 3 p.m., in room G–53, Capitol Building, Hon. Robert T. Ashmore, chairman of the subcommittee, presiding.

Present: Messrs. Ashmore, Carter, Lesinski, and Lipscomb.

Also present: Julian P. Langston, chief clerk; Samuel Still, counsel.

Mr. ASHMORE. Ladies and gentlemen, I ask the committee to come to order. We have some other members of the committee, I understand on the way over, but at the present time it is not essential that they be here.

We have three bills on the calendar, all of which relate to the Hatch Act in various degrees.

(H.R. 696, H.R. 876, and H.R. 3997 are as follows:)

[H.R. 696, 86th Cong., 1st sess.]

A BILL To amend the provisions of law relating to the prevention of pernicious political activities (the Hatch Political Activities Act) to make them inapplicable to State and municipal officers and employees, to permit limited partisan political activities by Federal officers and employees in certain designated localities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(a) of the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended (5 U.S.C., sec. 118i(a)), is amended by striking out "The provisions of the second sentence of this subsection shall not apply to the employees of the Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside.".

SEC. 2. Section 9(b) of such Act, as amended (5 U.S.C., sec. 118i), is amended (1) by striking out "by unanimous vote", (2) by striking out "That in no case shall the penalty be less than ninety days' suspension without pay: *And provided further*,", and (3) by striking out "by a unanimous vote".

SEC. 3. Section 12 of such Act, as amended (5 U.S.C., sec. 118k), is hereby repealed.

SEC. 4. Section 16 of such Act (5 U.S.C., sec. 118m) is amended to read as follows:

"SEC. 16 (a) Whenever the United States Civil Service Commission determines that it is in the domestic interest of persons to whom the provisions of this Act are applicable to permit such persons to take an active part in partisan political campaigns involving the municipality or political subdivision in which such persons reside, the Commission shall promulgate regulations permitting such persons to take an active part in partisan political campaigns to the extent that the Commission deems to be in the domestic interest of such persons, but subject to the following conditions:

"1. The persons must reside in the municipality or political subdivision in the immediate vicinity of the National Capital in the States of Maryland and Virginia, or in municipalities or political subdivisons in which a substantial portion of the voters are employed by the Government of the United States.

"2. Political activity must be limited to partisan political campaigns involving public elective offices of such municipality or political subdivision or involving elections of members of the State legislature who represent such municipality or political subdivision.

"3. Employees are prohibited from engaging in partisan political campaigns on any Federal property or in any building where business of the Government of the United States is carried on.

"(b) The provisions of subsection (a) shall be applicable to the employees residing in the municipalities and political subdivisions which the Commission has heretofore designated under section 16 of the Act prior to this amendment, until such time as the Commission revokes the designation."

SEC. 5. Section 18 of such Act, as amended (5 U.S.C., sec. 118n), is amended by striking out "or in the second sentence of section 12(a)".

SEC. 6. Section 21 of such Act, as amended (5 U.S.C., sec. 118k–1), is amended by striking out ", or 12".

SEC. 7. (a) The first paragraph of section 595n of title 18 of the United States Code is amended by striking out "or by any State, Territory, or possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or possession of the United States or by any such political subdivision, municipality, or agency) in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof."

(b) The second paragraph of such section is amended by striking out "by any State or political subdivision thereof, or by the District of Columbia or by any Territory or possession of the United States" and inserting in lieu thereof "by the District of Columbia".

(c) The heading of such section is amended to read as follows:

"§ 595. Interference by administrative employees of Federal Government"

(d) That portion of the analysis at the head of chapter 29 of title 18 of the United States Code which reads:

"Sec. 595. Interference by administrative employees of Federal, State, or Territorial Governments."

is amended to read as follows:

"Sec. 595. Interference by administrative employees of the Federal Government."

[H.R. 876, 86th Cong., 1st sess.]

A BILL To amend the Hatch Act to permit all officers and employees of the Government to exercise the full responsibility of citizenship and to take an active part in the political life of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second, third, fourth, and fifth sentences of section 9(a) of the Act entitled "An Act to prevent pernicious political activities, 1939", approved August 2, 1939, as amended (5 U.S.C. 118i), are repealed.

(b) The second, third, and fourth sentences of section 12(a) of such Act (5 U.S.C. 118k) are repealed.

(c) Sections 15, 16, and 18 of such Act (5 U.S.C., secs. 118l, 118m, 118n) are repealed.

SEC. 2. No officer in the executive branch of the Government shall make any rule, regulation, or order limiting or restricting the right of officers or employees of the United States to take an active part in the political life of the Nation.

[H.R. 3997, 86th Cong., 1st sess.]

A BILL To remove certain restrictions imposed on the political activities of officers and employees of the Federal and State Governments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 9 of the Act entitled "An Act to prevent pernicious political activities," approved August 2, 1939 (5 U.S.C. 118i (a)), is amended by striking out the second, fourth, and fifth sentences.

SEC. 2. Section 12 of such Act (5 U.S.C. 118k) is amended by—

(1) striking out the second and fourth sentences of subsection (a) of such section; and

(2) striking out "two sentences," where it appears in subsection (e) of such section, and inserting in lieu thereof "sentence".

SEC. 3. Section 14 of such Act (5 U.S.C. 118k–3) is amended by striking out all that follows "United States" down to the period at the end thereof.

SEC. 4. The following parts of such Act are repealed:

(1) Section 15 (5 U.S.C. 118l);

(2) Section 16 (5 U.S.C. 118m); and

(3) Section 18 (5 U.S.C. 118n).

Mr. ASHMORE. One of the bills is H.R. 876 introduced by Mr. Multer on January 7, 1959. This bill seeks to amend the Hatch Act to permit officers and employees, both State and Federal, to take an active part in political activities.

Another one of the bills is H.R. 3997 introduced by Mr. Anfuso.

H.R. 696 is a committee bill that was introduced after an exhaustive study of this matter by this subcommittee and, upon its recommendation, it was approved by the full committee several months ago. The recommendations by the committee on December 31, 1958, relating to H.R. 696 were as follows:

The committee recommends amendment of section 9(a) of the Hatch Act by eliminating the present preferential treatment afforded Interior Department employees of the Alaskan Railway, thus placing Alaskan Railway employees under the same political restrictions as are now or might be imposed on employees of the Bureau of Public Roads and other Federal agencies living in such cities as Anchorage, Fairbanks, and Seward.

There at that point, I understand that some of the witnesses here have statements, have some opinions that they wish to get to the committee regarding that matter. I will, of course, at the proper time, be glad to hear from you. I am personally not too familiar with this Alaskan clause. Mr. Still, counsel, is more familiar with it; but that section has caused some further study or some request by different Government employees for appearances before the committee.

The second recommendation is that the committee recommends amendment of section 9(b) of the Hatch Act to eliminate existing provisions requiring a unanimous vote of the Civil Service Commission to impose any lesser penalty than removal.

The committee recommends amendment of section 9(b) of the Hatch Act to eliminate the present severe and harsh 90-day minimum suspension period for violators of section 9(a). It would reduce the penalty clause somewhat.

The committee recommends the repeal of section 12 and such an amendment to sections 2 and 21 of the Hatch Act as to entirely remove State and municipal employees from coverage under the act, thus returning to the respective States and municipalities the responsibility for regulating the political conduct of their own employees.

I am sure that most of you recall that in former hearings we went rather fully into that phase of the Hatch Act and there seemed to be some, practically unanimous, I would say, according to my recollection, feeling that there certainly should be some change in this regard to the Hatch Act.

Fifth, the committee recommends amendment of section 16 to permit partisan political activity on the local level up to the State legislature on the part of Federal employees in federally impacted areas in nearby Maryland and Virginia and elsewhere throughout the United States.

We have a list of witnesses here which is rather long. I hope we can hear from everybody. There may be others who have come in since this list was prepared, but if so, I want you to give Mr. Langston, or Mr. Still your name.

Mr. LESINSKI. May I ask a question before you proceed? If I recall correctly, the Hatch Act was put into—Mr. Still can answer this question—came into effect during the thirties when the WPA days were with us throughout the country and the purpose of it was to, from the opposition, because of the administration in power at that time, to keep WPA officials and so forth from political activity; and in view of the fact that WPA funds were involved with the counties, State, municipal governments, and for that reason carried throughout all the political organizations and boundary lines—is that the significance behind this whole thing?

Mr. STILL. Yes.

Mr. CARTER. This Hatch Act actually was not passed until 1939, but the background that created the need for it is just what Mr. Lesinski described here.

Mr. ASHMORE. Grew out of those conditions that existed in the WPA days, and so on.

Mr. CARTER. Actually, the thing that was discussed most in the Congressional Record at the time the bill was passed was the AAA rather than the WPA.

Mr. ASHMORE. I think that pretty well covers the background and history of it.

Mr. LESINSKI. I wanted to make sure in my mind before you went into the subject, that is all.

Mr. ASHMORE. Thank you.

Gentlemen, and ladies—I don't know whether any ladies have statements or not, but if so we will be glad to hear from you—if you have written statements, you witnesses, we would like to have those so we can have them for the record and then, if you will, make your oral statements as brief as possible because we are going to be here when suppertime comes around if we don't cut down our statements somewhat. I believe everybody wants to be heard from.

The first witness is Mr. Keating, vice president, National Association of Letter Carriers.

STATEMENT OF JEROME J. KEATING, VICE PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS

Mr. KEATING. Mr. Chairman, gentlemen of the committee, my name is Jerome J. Keating. I am vice president of the National

Association of Letter Carriers, an organization with a membership of over 110,000 letter carriers located in every State in the Union, the District of Columbia, and Puerto Rico.

We are very much interested in H.R. 696, a bill sponsored by the very able chairman of this committee. We are particularly pleased with section 2 of H.R. 696, which effectually removes the mandatory punishment provisions of the present law. The present law is indeed most unjust, in that it provides for removal in the case of an employee found guilty of violating the Hatch Act, and a mitigation of this penalty is provided for only when the three Commissioners—by unanimous action—consent to reduce the penalty to 90 days' suspension.

To illustrate how unjust this provision can be, I wish to briefly outline what happened to one of the members of our organization. One of our letter carriers who lives in a suburban community in Pennsylvania, adjacent to one of the larger cities, without any knowledge or solicitation on his part, was elected as a school director in 1947 through write-ins. The State of Pennsylvania is the only State in the United States, to the best of my knowledge, where school directors are elected on a partisan basis. When this letter carrier became aware of the fact that he had been elected, he went to his immediate supervisor who consulted the "Postal Laws and Regulations," now the "Postal Manual," but it was at that time the "Postal Laws and Regulations," and found therein that employees could hold office as members of school boards or committees. The supervisor as well as the carrier overlooked the fact that the regulations also provided that participation could not involve political activity.

Following the first election, the letter carrier was successfully elected each term thereafter. He did not at any time actively campaign; he did not take part in preparing the necessary petitions; but his name was carried on the ballot as a Democratic candidate for election to the position of school director. The position was the type that people do not seek, but are talked into. He was secure in his belief that according to the regulations it was perfectly legal.

In July 1952, form 61 was issued by the Post Office Department, wherein the employee was asked to sign the form and state that he understood the many restrictions that are placed upon postal employees. The carrier entered thereon that he was serving as a school director and signed the form. This signed form had been in that post office for 5 years when someone made a complaint to the Civil Service Commission in the summer of 1957 and an investigation resulted. Upon learning that the Commission regarded being elected to this position as a violation of the Hatch Act, the carrier declined to serve after being elected, even though he had been elected in that particular year. I might say that the Commission ordered suspension and since that time, since 1957, that carrier has been severely punished by the anxiety and worry he has suffered due to the fact that his case has been under investigation and under appeals and hearings ever since 1957.

To have a penalty of removal—even for 90 days—hanging over the head of a man who has so innocently become involved in this position is indeed most cruel. The passage of H.R. 696 would give the Commission latitude to operate so that, in cases of this sort where

extenuating circumstances are so numerous, the charge could be dismissed. There have been remarkably few violations of the Hatch Act since the legislation was first placed on the statute books.

We are also much interested in section 4 of H.R. 696, and we heartily endorse it. We believe that it would be right and propert to extend the same rights to all Federal employees. This would permit their full participation in State, county and municipal elections. We do not believe that participation in other than Federal elections would be in violation or interference of their positions as employees of the U.S. Government.

We hope that this committee will give early consideration to H.R. 696, and favorably report it to the House of Representatives so that this legislation will become law this year.

I appreciate having had the opportunity to testify on this legislation.

We testified previously when we discussed other phases of the Hatch Act, but in this bill we are particularly interested in those two sections, Mr. Chairman.

Mr. ASHMORE. Thank you a lot, Mr. Keating. We are certainly glad to have your statement and the very enlightening references therein to an actual case as to what can happen in these circumstances.

Any questions before the next witness.

Let me say that I am glad to see Congressman Lankford has come in. He has for years shown great interest in this law, in the Hatch Act, and numerous amendments that he is interested in regarding the act.

Also, Mr. Lipscomb from California, a member of the committee is present. Dick, do you have anything you would like to say?

Mr. LANKFORD. No, I came to listen, Mr. Chairman. I may have something a little later on I would like to say but right now I came to listen.

Mr. ASHMORE. Mr. Campbell?

Mr. MCCART. I am director of legislation for the American Federation of Government Employees and I am presenting our testimony today in Mr. Campbell's absence from the city on official business.

Mr. ASHMORE. All right, you may proceed.

STATEMENT OF JOHN A. McCART, DIRECTOR OF LEGISLATION, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, FOR JAMES A. CAMPBELL, PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, IN LATTER'S ABSENCE

Mr. MCCART. I thought it would probably be well in view of the fact that we have previously submitted prepared statements to the committee for me to summarize by reading excerpts from our testimony which are intended to point up the various provisions of H.R. 696.

Let me say at the outset, Mr. Chairman, that we want to express our appreciation to you for your introduction of the legislation and for arranging the hearings. And let me emphasize that we feel H.R. 696 is basically a very sound bill. We have some recommendations to make concerning specific sections of the bill but that does not in

any manner detract from our fundamental position in support of the objectives that you are trying to achieve.

Mr. Chairman, if I may, I will proceed with the excerpts from the testimony.

Mr. ASHMORE. Yes, sir.

Mr. MCCART. Amendment of the Hatch Political Activities Act is of more than ordinary concern to the American Federation of Government Employees. Therefore, we are especially interested in H.R. 696 sponsored by Representative Ashmore of South Carolina.

Our concern with this bill, as it would be with any similar measure, is that while we concur in the basic viewpoint of the Hatch Act, we are of the opinion that it is in need of some liberalization. It appears entirely possible to effect this needed modification without lessening the safeguards which this law provides. Any consideration of proposals to change the Hatch Act should proceed only in the recognition of its intended protection of Federal employees from the insidious demands of a spoils system such as that which plagued our Federal service until the latter part of the last century.

Repeated efforts were made to remove Federal employment from politics. One of these efforts culminated in the issuance of an Executive order, dated April 16, 1872, by President Grant. While this order proved to be ineffective, it is significant for its statement of the underlying principles of the Hatch Act enacted 67 years later. The order stated in part:

> * * * Political assessments, as they are called have been forbidden within the various Departments; and while the right of all persons in official position to take part in politics is acknowledged, and the elective franchise is recognized as a high trust to be discharged by all entitled to its exercise, whether in the employment of the Government or in private life, honesty and efficiency, not political activity, will determine the tenure of office.

It was because conditions continued to retrogress and react unfavorably on the efficient operation of Government departments that legislation became not only necessary but possible, and in 1883 the Federal Civil Service was established on a merit basis.

The Civil Service Commission then issued rules pursuant creating it and the first two rules of the Commission dealt with political activities of Federal employees. They were worded as follows:

Rule 1. No person in said service shall use his official authority or influence either to coerce the political action of any person or body or to interfere with any election.

Rule 2. No person in the public service shall for that reason be under any obligation to contribute to any political fund, or to render any political service, and he will not be removed or otherwise prejudiced for refusing to do so.

It is significant that these first civil service rules placed major emphasis on the need for eliminating the type of political activity which had become the bane of the public service. The fact that these rules were considered to be of such importance to the success of the newly established civil service indicated that unrestricted political activity and a merit system are incompatible. Restriction does not and must not mean that the Federal employee is not permitted to discharge his duty as a citizen and he must by all means take an active interest in public issues at all levels of government. He should be discerning in

his analysis of issues and appraisal of candidates as well as conscientious in casting his vote in every election.

It is clear that a law which restricts political activity is a protection for Federal employees and is decidedly beneficial so long as it does not deprive them of enjoying otherwise the basic rights of citizenship and of fulfilling the duties which are required of citizens. It is a protection to the extent that it offers every qualified person the opportunity to obtain a position in the Government service because of merit and assures him the retention of that position because of efficient service rather than for reasons of political preferment.

Though we believe sincerely that the fullest protection should be given the Federal employee from the slightest encroachment of the political spoilsman, we are equally concerned that the law must not be too rigidly construed so as to penalize an employee chiefly because he is in the public service.

It is gratifying, therefore, to note that H.R. 696 provides substantial modification of section 9 of the Hatch Act which, in our opinion, has from the outset been altogether too severe in its penalty and necessarily too harsh in its application. Removal of the requirement of a 90-day suspension for the slightest infraction of the law is a much-needed improvement. It represents considerable progress from the original penalty of removal from the service which had to be imposed in every case in which a positive finding had been made. The fact is that the 90-day suspension represents a much heavier penalty than is imposed in many violations of the Criminal Code. For example, it actually represents a fine of $2,000 for the employee who receives an $8,000 salary.

Substantial improvement in section 9 would also be made in the amendment striking out the phrase "by unanimous vote." This change would also lessen the severity of the current law and, in many cases would eliminate the present costly procedure an employee must follow in his effort to clear himself of the charge. At present the employee must be removed before he may utilize the appellate process available. By removing the requirement that the Commission only by a unanimous vote can make a determination that the violation does not warrant removal, it becomes possible for the Commission to delegate its authority, an action which is not now permissible.

Section 4 of the bill includes another amendment in which the American Federation of Government Employees has an interest. The amendment would permit participation in partisan political campaigns up to and including State offices. At present this is permissible only on a local level. There is one aspect of this amendment which should be given serious consideration. As now written, the bill, in rewording subsection (a)(3) of section 16 of the act, would prohibit an employee from engaging in partisan politics "on any Federal property." This phrase could adversely affect the employee who resides on a Federal reservation such as a veterans hospital or a Federal prison. If he received unsolicited campaign literature in the mail at his home, he might be running the risk of a constructive violation of the law.

In that connection, Mr. Chairman, we have no objection to the intent of the language of the bill. We feel that some clarification might be desirable so that the Federal employees who happen to reside on

Federal reservations would be able to exercise the other rights that are provided under the Hatch Act and under the bill.

Mr. ASHMORE. Clarifying language?

Mr. MCCART. Yes, sir.

Section 1 also has an interest to our organization. We are opposed to this amendment because we are strongly in favor of Alaska Railroad employees retaining the right they now have to participate in local politics in communities along the rail belt. Many of these employees are members of the American Federation of Government Employees, and the expression we have received from them is that they wish the provision currently in the law to be retained because they believe the communities affected need railroad employee participation. They point to the fact that the last recently elected mayor of Anchorage was a railroad man.

In that connection, Mr. Chairman, the report of the Senate indicated that the need for this revision was based on discrimination against other Federal employees of the public roads commission and similar agencies in Anchorage, Fairbanks, and Seward. In line with the general thinking we have expressed by the Hatch Act, we feel that the provisions that now exist for the Alaska Railroad employees and communities along the rail line could very well be extended to the other employees who are enumerated in the subcommittee's report, so that we have an expansion of the present rule rather than eliminating the provision that the Alaska Railroad employees now enjoy.

Mr. ASHMORE. Would that be practical?

Mr. LESINSKI. At that point, of course, the population has increased in Alaska but wouldn't the railroad employee oftentimes be the one of a few living in a community, little section, there might be someone that would need to be elected.

Mr. MCCART. You are quite right, Congressman. We think in terms of Seward and Fairbanks and Anchorage as being the large urban areas of Alaska.

Mr. LESINSKI. I am talking about the small communities.

Mr. MCCART. You have very many small communities along the line of the rail belt which extends from Seward up to Fairbanks, an 800-mile stretch and in these small hamlets, they are populated almost entirely by railroad employees, to that on that basis the need still exists.

Mr. LESINSKI. Thank you.

Mr. ASHMORE. Mr. Still is more familiar with this. He has made a special study of it.

Mr. STILL. Under that particular provision, removing Alaskan railroad employees, the committee when it made the study discussed that with the Bureau of Public Roads and quite a few other employees, Federal employees that live in that same area along the Alaskan Railway. Now, your problem would be the man that was running for mayor, that happened to be a railroad employee. Under section 16, these areas that are predominantly Federal, while they can proclaim under section 16 and still he could run for mayor under political label, that is, Democratic or a Republican, you would be technically removing that provision of discrimination and then allowing the railroad employees to come under section 16 along with all other Government employees, you see.

Mr. McCART. Mr. Chairman, in the absence of any comment or assurance or any pronouncement on the part of the Civil Service Commission as to its intention about declaring these communities as Federal communities under section 16, we thought it better to propose the deletion of the sections that now appear.

I might add that we contacted our folks in Alaska in Anchorage on this point. Many of the employees on the Alaska Railroad belong to our organization. It was from them that we received the feeling that they felt this provision should be retained.

Mr. LESINSKI. On the other hand, Mr. Still and Mr. McCart, if the report of the committee on the bill after the bill is reported out, clarifies the statute completely, I think we are still in good order to retain that section in the bill, then, as long as the explanation is there as to the intent of it.

Mr. STILL. That is right.

Mr. ASHMORE. You think that would satisfy you gentlemen if we have it in the report clearly stated what the intention of the amendment is?

Mr. McCART. Yes.

Mr. ASHMORE. We are trying to help the folks and get everybody in the same category. We knew what the purpose was. I see what you mean. If they are provided for as other employees similarly situated, that would be satisfactory?

Mr. McCART. I gather that the real need for this language developed out of the fact that at the time with the very small population in Alaska, these communities were predominantly, if not totally, Federal-employee communities. That situation has changed somewhat but it hasn't been eliminated completely because we still have these very small areas where there is still a predominance of Federal employees.

Mr. STILL. In other words, you feel that the employees up there, of the Alaskan Railroad have a doubt in their mind as to whether the Civil Service Commission would declare that an area, is that what you meant?

Mr. McCART. Yes, sir. We had not received any indication as to the intention of the Commission on that score.

Mr. STILL. This provision of section 16 was drafted after a conference with the chairman of the committee, Mr. Ashmore, with the chairman of the Civil Service Commission, Mr. Ellsworth, and his enforcement attorney, Mr. Meloy, and of course I was there.

It seemed out of that conference that section 16 was about as strong a thing as you could get the Civil Service Commission to go along with because after all, you face a proposition that the head of the executive branch of the Government does have control over the executive employees and there is a constitutional question as to what extent Congress could invade his prerogative of directing the employees. And I believe that section 16 was a compromise, wasn't it, Mr. Chairman?

Mr. ASHMORE. I think that is right, Mr. Still. It was satisfactory at the time we talked to Mr. Ellsworth.

Mr. McCART. Having made the point and recognizing the attitude of the committee, we would certainly be happy to leave the welfare of the employees in your hands from this point.

Mr. ASHMORE. We will certainly try to work it out to their benefit.

Mr. MCCART. Amendment of the Hatch Act is therefore highly desirable for several reasons. As already pointed out, the penalty of suspension for a minimum of 90-days for all violations is excessive. There is need for further amendment of the law with respect to the current requirement than an employee must be removed first in order to appeal from a finding that he has violated the Hatch Act. This provision imposes on a Federal employee the necessity of engaging in what might be come a costly procedure to disprove the propriety of his removal.

Experience with the Hatch Act reveals a general observance of its provisions. From August 2, 1939, to June 30, 1958, the Civil Service Commission disposed of 2,924 out of 3,002 complaints of alleged violation received. There were 1,100 cases closed without complete investigation, while in 1,297 cases no violations were established. Thus no action was warranted in about 83 percent of the complaints. The point I want to make is that this record indicated a very high record of complaints. It shows rather convincingly that approval of the amendments proposed would not let down the bars to reasonable observances of the letter and spirit of the underlying principles of the Hatch Act. I might add parenthetically that these comments are not intended to indicate that there has been any laxity on the part of he Civil Service Commission in enforcing the Hatch Act. As a matter of fact, it is our considered judgment that they have been quite stringent in their enforcement of that statute. There is little question that serious violations could and would be dealt with as severely as the law now requires. Removal still would be the penalty for serious infractions, but the present severity could be tempered by the rule of reason.

We approve the amendments we have discussed favorably because we feel they will not endanger the proper safeguards with which the Political Activities Act has surrounded the Civil Service. We wish to retain in the law the fullest measure of protection of Federal employees from involvement in partisan politics. We believe that protection is essential to the preservation of the merit system. To that principle every citizen who desires efficiency and economy in Government must subscribe. We are convinced that preservation of the basic provisions of the Hatch Act will continue to prevent the Federal Civil Service from becoming the prey of political spoilsmen.

We appreciate this opportunity to state our position with respect to this bill and I want to say thanks for your patience and for your accepting the statement we have made.

Mr. ASHMORE. Thank you, sir. We are glad to have had your advice and comments.

Mr. MCCART. Thank you.

STATEMENT OF GORDON E. BREWER, CIVIL SERVICE COUNSEL, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

Mr. BREWER. Mr. Chairman, members of the committee, my name is Gordon E. Brewer. I am civil service counsel for the American Federation of State, County and Municipal Employees, AFL-CIO. Larry Smedley, my associate, is on my left, who has worked with me in preparation of our statement on H.R. 696.

The American Federation of State, County and Municipal Employees is a labor organization of approximately 200,000 members in 46 States. I wish to express my appreciation to this committee for an opportunity to present the views of our organization on the subject of H.R. 696 amending the Hatch Act.

The American Federation of State, County and Municipal Employees in resolutions passed at international conventions has gone on record in favor of repeal or modification of the Hatch Act, and supports the general intent of this bill to modify the political restrictions of the Hatch Act.

On May 2, 1958, in Long Beach, Calif., at our last international convention, our international president, Arnold S. Zander, speaking on a resolution to repeal the Hatch Act stated in part as follows:

> The Chair would like to say, on the motion, that the motion just made would be in conformity with long-standing international union policy in opposition to the Hatch Act. We opposed its enactment in the first place. We have opposed the enactment of State legislation of the same kind * * * So that the Chair would concur in the idea expressed here in this resolution that we work for the repeal of the Hatch Act at the State level certainly, and at the national level so far as it affects any of our people.
>
> I would like to point out that in our opposition to the Hatch Act, federally and at the State level, we have always made clear that we are in favor of clean government. We are opposed to, and have been able to stop, these political enforced contributions. We have dones that in cities and States across the land. We are not in favor of having pressure put on members of our union for contributions to political undertakings. All of this is true, but we are not interested in having the long arm of Government reach out from Washington to the littlest community and say what can and cannot be done in line with the kind of provisions we find in the Hatch Act.

I will confine my remarks primarily to section 12, covering State and local employees in which our organization has a particular interest, and only make a few general remarks concerning the bill as a whole. We support the views that have been or will be expressed by other affiliates of the Government Employees' Council, AFL–CIO.

I might add that we support the views that have been and will be expressed by those representatives of the AFL–CIO who are here today.

In general, we feel the whole principle of the Hatch Act is unsound. The evils of improper political activities should be attacked by appropriate discipline and punishment. It is unfair and undemocratic to limit or curtail the exercise of political rights because they might be abused. When public employees are denied the responsibilities of citizenship, the result can only be a restricted preoccupation with their material conditions of employment. Such self-centered emphasis can result only in indifferent performance of their public duties and the blocking of creative citizenship. Creative and responsible citizenship among public employees is particularly needed in an era of overexpanding Government.

As previously expressed, we agree with the general intent of the bill but disagree with the section which applies to employees of the Alaska Railroad. We disagree that these employees residing in municipalities on the line of the railroad who now have the right to participate in the political activities involving the municipality in which they reside should be denied this right. They have exercised this right since 1946 and the results have been good. There appears to be no necessity at this late date for making them subject to the

unnecessary restrictions of the Hatch Act. As Alaska embarks upon the difficult road of statehood, the political services of these individuals will be vitally needed in their communities.

Section 3 of this bill, repealing section 12 of the Hatch Act, is of primary interest to our organization and the rest of my remarks will concern this section. Of course, any remarks I make concerning section 12 will apply equally to repeal of related provisions of section 595 of title 18 of the United States Code.

The Federal Government in many cases contributes a very small proportion to the salary of State or local employees and through the medium of the power to withhold Federal grants has preempted the right to regulate the political activities of State and local employees. The intrusion of the Federal Government into this field has resulted in unfair discrimination. Large numbers of State and local employees are not covered by section 12 of the Hatch Act and generally have far more opportunity to exercise their political rights than those who are so covered. Thus, we have the situation where employees working for the same public jurisdiction have completely different rights concerning political activity. The State and local governments should be free to prescribe uniform regulations for their own employees. States and localities differ in governmental structure, customs, political philosophy, and so forth, and it is only fair and wise that such regulations should be made in terms of the particular situation in the locality concerned.

Actually, what is happening, as more Federal grants-in-aid are given, the number of employees who are subject to the provisions of the Hatch Act, State and local employees, is increasing rapidly.

In 1957, full-time public employment in the United States totaled more than 7 million persons. Excluding educational personnel, State and local employment accounted for approximately 3 million of this total. During the period of 1952–57, the number of civilian Federal employees has altered very little with the exception of seasonal variations. During the same period, employment of State and local governments has risen approximately 20 percent. Present indications are that the trend is continuing and even accelerating.

This growth in State and local employment has been accompanied by a vast growth in Federal grants-in-aid. In 1940, the grants-in-aid programs amounted to $572,870,641 and in 1958, these grants totaled $4,939,235,314. Thus, we have the situation where the number of State and local employees are growing at a rapid rate, coupled with a similar rapid growth in grants-in-aid programs to State and local governments. As a result, more and more State and local employees are coming under the purview of section 12 of the Hatch Act. It was the obvious intent of the framers of the Hatch Act to use section 12 for the specialized purpose of preventing the misuse of Federal funds that were being channeled to relief and public works projects as a result of the depression. Certainly, it was never envisaged that this provision would result in more State and local employees coming under the provisions of the Hatch Act than Federal employees. Yet, this is precisely what is occurring. Should no changes be made in the act, the Federal Government and Federal Civil Service Commission will find eventually that a majority of its time will be consumed in investigating and bringing charges against State and local employees.

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It is unlikely that section 12 of the Hatch Act has ever been enforced to the extent that the legal requirements of the section would imply. Section 12 applies to any local or State employee—

> whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency * * *

Thus, any full-time employee of any State or local government who receives any part of his salary from the Federal funds, even if this would only be $5 a month, would be covered. It would seem almost impossible to enforce the act to this extent.

I think the special committee to investigate concerning the number of State and local employees paid wholly or partially from Federal funds received inquiries on questions of this nature from a number of States indicating the difficulty.

For example, the State auditor of West Virginia had the following to say in reply to a questionnaire sent out by the Special Committee To Investigate and Study the Operation and Enforcement of the Hatch Political Activities Act concerning the number of State and local employees paid, wholly or partially, from Federal funds:

> We have made a diligent search and have investigated the question through numerous State departments handling Federal funds and have found that it is impossible to give you, with any degree of accuracy, the number of officers and employees who are paid, wholly or partially, from Federal funds.
>
> The Hatch Act has never been very seriously considered by people employed in government work in this State as it seems a great majority think it unconstitutional as it interferes with the rights and privileges of private citizens and is probably an exercise of police power by the Federal Government within a State, which power, the Federal Government does not have under the Constitution of the United States.

The problem of determining which State and local employees might be receiving their salary from Federal funds is difficult and will become more complex. The intermingling of State and Federal funds and federally aided activities are becoming so complex that it will be almost impossible to identify those State and local employees who fall in this category.

It is difficult to understand why the Federal Government should attempt such an impossible task when there is little actual need for Federal regulations. Those local and State employees covered under section 12 of the Hatch Act have coverage by some sort of civil service or merit system. Invariably where you have merit systems or civil service coverage, you have reasonable restrictions on the political activities of the employees. Twenty-one States have statewide civil service systems, 11 States have a large number of employees covered under civil service or merit systems and 17 have civil service or merit system for grants-in-aid programs only.

On January 1, 1940, all States receiving Federal grants under the Social Security Act were required to place unemployment insurance and public assistance employees under a merit system. Similar requirements applied to grants for public health, child welfare, public assistance, and vocational rehabilitation activities.

Thus all States have at least limited merit systems applying to all or most of their agencies receiving Federal grants, even in those States where the other departments continue for the most part under party patronage. Federal regulation is an unnecessary duplication of what

State governments are already doing and unnecessary Federal intervention in what could be best regulated by the State and local governments themselves.

The concern of Congress that Federal grants might be used to establish political machines in the States is understandable. The continued requirement that State and local agencies receiving Federal grants must place their employees under a merit system is excellent protection against this occurrence. The continued use of this requirement will do much to provide the protections needed, without the unreasonable restrictions on basic political rights. While the imposition of merit systems as a condition for receiving Federal grants is an interference in State affairs, it is inevitable that some Federal standards will be required for the use of Federal funds. Merit systems have the advantage of control and administration by the States themselves with minimum Federal surveillance. The merit system requirement is one of the best guarantees that Federal funds will not be used for unfortunate political purposes while at the same time leaving administration and control to the State.

Rigid political restrictions on public employees is an unfortunate and negative approach. Such an approach is always obsolete where modern philosophy and methods of personnel management and a career service under a merit system has taken root. With the new concepts of governmental responsibility under our democracy, and the high educational standing of our present citizenry with its keen, intelligent interest in governmental matters, we no longer need have any concern over the neutrality of our civil service. It is obvious that the Federal Government will not be able to adequately enforce section 12 by investigative procedures. This is certainly pointed out by the letter from the auditor from West Virginia that they didn't even know how many employees were covered in West Virginia.

In the last analysis, a good administration and a dedicated public service will have to depend on other methods such as merit systems. The merit system has become a natural and compelling influence in administration of government.

Almost all the corruption and abuse existing in government on the State or local level can be directly traced to political apathy on the part of the citizenry. The dire need of good government on the State and local level should not be met through a restriction of political activities, but a stimulation of such activities. There is a great need for public employees to help inform and educate the public as to the evaluation of political and economic issues. Unfortunately, one vitally important group of citizens capable of providing intelligent political leadership are prevented from doing so. It is likely that continued recruitment into public service of high caliber persons cannot be maintained if they are placed in second-class status as far as political rights are concerned. Intelligent people cannot remain political mummies. The whole concept of the necessity of the absolute political neutrality of public employees has steadily lost ground . Just several days ago, in an address to the National Conference of the American Society for Public Administration, Roger W. Jones, Chairman of the U.S. Civil Service Commission had the following to say on this point:

> We have come to recognize, however, that prevention of a renaissance of the spoils system does not require political neutrality on program and policy by any career executive. Neither the Congress, used to dealing with him as

an expert with profound program commitments, nor the public used to dealing with an efficient manager of their business, nor his political superiors, used to challenging his judgment against their own experience and understanding, will let him be a neutral nincompoop or an intellectual changeling.

Mr. Jones was speaking of career executives. Surely there is less reason for such neutrality on the part of the rank and file public employee. Certainly prohibiting officeholders from coercing subordinates for funds and support or particular candidates is desirable. But voluntary political activity by public employees on their own time has never built or maintained a political machine. Public employees are as diverse in their political and economic views as any other group of American citizens. Like any other group, their views depend on many diverse factors such as the opinions of families and friends, financial and social backgrounds, individual temperament, and the impact of political decisions on their own personal well being. As has been pointed out previously, State and local employment has been growing at a rapid rate—approximately 200,000 a year—and section 12 of the Hatch Act will remove additional millions of State and local employees from active participation in politics. If this situation is not rectified, political control could actually retrogress to minority control by special interest groups. The future may well see the spectacle of democratic government having deliberately destroyed the very process by which democracy exists.

In closing, I might say that the Ashmore bill, which you are considering today is a step in the proper direction in this whole complex field of public employee political rights. Our viewpoint can probably be best summarized by an opinion expressed by Mosher, Kingsley, and Stahl in their book, "Public Personnel Administration," 1950:

Evolution should be the route by which we reach the stage where merit is so strongly entrenched that it will be safe for all civil servants, except perhaps those in top policy forming, regulatory, and quasi-judicial positions, to resume fully the responsibilities and rights of mature citizens and to hold any party or public offices which do not interfere with the impartial discharge of their duties or result in their wielding legislative or executive authority over their own conditions of employment or their own service superiors.

Again I wish to thank the members of the committee for their time and attention. Thank you.

Mr. ASHMORE. Thank you, sir, very much, for your very fine statement.

Mr. LESINSKI. Mr. Brewer, do I understand you correctly to say you wish to repeal the Hatch Act entirely?

Mr. BREWER. We are concerned here with the repeal of section 12 as it affects our members in State, county, municipal service.

Mr. LESINSKI. You are not advocating repeal of the Hatch Act?

Mr. BREWER. We didn't feel that was the subject which was before this committee at this point.

Mr. LESINSKI. The impression I received from your statement was that you were.

Mr. BREWER. Our convention has gone on record to that effect on a number of occasions but particularly with respect to section 12 as it affects our own members.

Mr. LESINSKI. You are in full accord with the legislation and keeping in mind the possibility if we go any further than this, that the

President might veto the so-called bill as he has done in the past under Truman and Eisenhower, both?

Mr. BREWER. Yes.

Mr. LESINSKI. Thank you, Mr. Chairman.

Mr. ASHMORE. Mr. Hallbeck.

STATEMENT OF E. C. HALLBECK, LEGISLATIVE DIRECTOR, NATIONAL FEDERATION OF POST OFFICE CLERKS

Mr. HALLBECK. Mr. Chairman, members of the committee, I regret I do not have a number of copies of my statement this morning. We are moving our headquarters and right now I can't even reach a mimeograph machine as I had to do the next best thing.

Mr. Chairman, for the record, my name is E. C. Hallbeck. I am legislative director of the National Federation of Post Office Clerks, 817 14th Street, NW., Washington, D.C.

At the outset I want to thank you, Mr. Chairman, for allowing us this opportunity to express our views on what is certain to be a very controversial subject. In general, we endorse the intent of H.R. 696. Our criticism is that it does not go as far as we would like to see it go. Very frankly, I represent an organization, one of the very few, I suspect, in Government circles, that is on record for complete repeal of the Hatch Act. We don't believe that it any longer serves a useful purpose. We believe that our people, if given the opportunity, could make a very useful contribution to good government on a State and local level, and it is our feeling that if the bill before you were so amended as to permit all employees, all Federal Government employees, not only those in the federally impacted areas the chairman has so well described but all Federal employees, to participate in political activities up to the level of the State legislature, it would be a better bill and we would then be able to make a substantial contribution to the general welfare.

I don't see that because a man is a Federal employee, he shouldn't be able vigorously to either support or oppose a sheriff or a coroner or a State assemblyman, or his alderman. The fact of his Federal employment has nothing to do with those things. He has a right to oppose or to support those officials as a citizen and as a taxpayer. So, as I say, we believe that the bill could be brought to make that possible, to allow all Federal employees to participate in partisan political activities up to the level of the State legislature without doing any harm whatever to the cause of good government.

As indicated in my statement, for many years the National Federation of Post Office Clerks has been on record for a complete repeal of the Hatch Act. We do not believe that it any longer serves a useful purpose. Most of the reasons for the enactment of the so-called Hatch Act have disappeared with the passage of time. The number of cases arising under the act are few and far between.

The bill, H.R. 696, is, in our judgment, a step in the right direction. We could wish it went much further but it does do several things that ought to be done.

One of these is that section 2 of the bill would amend section 9(b) of the act by removing the minimum penalty of 90 days' suspension and the requirement for a unanimous vote. While the 90-day suspension

penalty was an improvement over the original act which required removal for every infraction, it is in most instances a far too heavy penalty for what are often only technical infractions at most. We, therefore, approve section 2 of the bill.

Section 3 of the bill would repeal section 12 of the act with respect to employees of State or local agencies who perform duties in connection with activities financed in whole or in part by Federal loans or grants. We believe this to be a desirable amendment.

Section 4 of the bill would amend section 16 with respect to political campaigns in the National Capital area or in localities where the majority of voters are Government employeees. The proposed amendment would permit political activity in compaigns involving public elective offices up to the level of a State legislature. Quite honestly, we feel that an amendment to the act which would provide such a basic right for all Federal employees, not only those in the National Capital area, is not only desirable but probably the best possible compromise solution to the question of political activity for Federal employees. I know of no good reason why a taxpayer should not vigorously support or oppose a city councilman or an alderman or a member of a State legislature or a sheriff or a coroner, simply because that taxpayer is an employee of the Federal Government.

While there may be good reasons to restrain Federal employees from political activities in connection with elective Federal officials, the same reasons are hardly valid in the local and State field. I repeat, I believe that an amendment to the act that would permit all Federal employees everywhere to participate in any local and State elections up to the level of the State legislature would be highly desirable, and I hope this committee will give serious consideration to such an amendment.

The first section of the bill would amend the present act so as to bring within its purview the employees of the Alaska Railroad not presently covered by the act. While we do not represent the Alaska Railroad employees, it seems to us that this is a step in the opposite direction and one which should not be taken.

We also believe that there is some clarification necessary in the proposed amendment to section (a)3, of section 4 of the bill, with respect to the prohibition from engaging in partisan activity on any Federal property "or in any building where business of the Government of the United States is carried on". Business of the Government of the United States could mean almost anything and we believe that some tightening up of this language is desirable.

Thousands of postal and Federal employees could and would make substantial contributions to their communities if it were permissible under the Hatch Act. Unfortunately, a lot of these employees have an idea that the Hatch Act restricts them from doing anything other than casting a ballot. Probably a great many of them would not have it otherwise but in the case of those who could and would make contributions to the general welfare on local and State levels, the law at the present time makes such contributions impossible. Your subcommittee has an opportunity to correct that situation. We believe it can be best corrected in the manner previously set forth. I hope that this committee will take such actions.

With these suggested amendments, we endorse the purposes of the bill H.R. 696 by Congressman Ashmore.

Thank you. I think that about completes what I want to say at this time.

Mr. ASHMORE. Thank you, sir.

Are there any questions of Mr. Hallbeck?

If not, we will hear next from Mr. Thomas G. Walters, operations director, Government Employes Council.

STATEMENT OF THOMAS G. WALTERS, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYES' COUNCIL, AFL–CIO

Mr. ASHMORE. You are kind of a parent organization of these other boys, aren't you?

Mr. WALTERS. That's right. We have 24 member unions in the council, Mr. Chairman, 24 national and international unions and associations who membership, in whole or in part, are Federal and postal employees, and represents a membership in excess of one-half million.

Mr. Chairman and members of the subcommittee, the member unions of the Government Employes' Council appreciate the interest that has been manifested by the committee over the years on the general subject of amending the so-called Hatch Act.

As we appear before this committee today to endorse the intent of H.R. 696, I would like to make it crystal clear that, in the opinion of most of the member unions of the Government Employes' Council, H.R. 696 does not go far enough in amending and liberalizing the Hatch Act, but as a temporary, or stopgap measure, we are supporting the intent of H.R. 696.

We endorse the intent of H.R. 696 which would permit participation in partisan political campaigns up to and including members of the State legislature. We are not in accord with section 1, because our members believe that the Alaska Railroad employees should retain the right they now have to participate in local politics in communities along the rail belt.

The Government Employes' Council supports the position of the American Federation of State, County and Municipal Employees from coverage under the Hatch Act, as provided in sections 3 and 7 of the bill. We agree with them there is little justification for restriction of this nature, as most State and local governments already regulate the political activities of their employees, and have merit systems to see that Federal funds are properly administered. We concur when they say that it is difficult to enforce and determine which employees are subject to its restrictive provisions and that the regulation of political activities is best left to the State and local authorities who are most familiar with local problems. The only solution is repeal of section 12 of the Hatch Act, as provided in this bill.

Mr. Chairman and members of the committee, we in the Government Employes' Council, and I might add the officers, delegates, and the operations director have spent long years of service actually working for the Federal and postal service, and from our experience, think it is wrong to require that an employee must first be removed in order to appeal findings that he has violated the Hatch Act. I am sure each member of this committee would join with us and be in

favor of the employee being given an opportunity to appeal his decision before he is actually separated from the rolls as an employee.

Mr. Chairman, several weeks ago we appointed a special subcommittee of the council to make a lengthy and a detailed study of the ramifications of the Hatch Act. They made a preliminary report and decided to endorse the intent of H.R. 696; but this committee will be continued and some time in the near future when they have completed their study, we would appreciate sitting down with you and the members of the committee and your staff and offering some suggestions and the reasons why for these suggestions as to further consideration in the future of this legislation.

This committee consists of members of the council who have had long years of service in the Government. John McCart is chairman and Brother Keating and Brother Ryan, Gordon Brewer, Brother Bailey, and myself are members of the committee. Within the next 3 or 4 or 5 months, when we reach definite conclusions, we will be contacting you, Mr. Chairman.

Mr. ASHMORE. We will be glad to talk with you further on this.

Mr. WALTERS. Monday of this week we had a legislative committee meeting of the Government Employes Council and at that time it was the consensus of opinion that the better thing to do at this point was to endorse the intent of H.R. 696 and to ask for some minor changes in the legislation.

Now, we feel very keenly, of course, that the 90-day suspension or one of the things that must go, and also the unanimous vote provision that is in the law should not be continued. We likewise, at this meeting, Monday, the members of the council who have presented or will present statements to this committee, the contents of their statements was discussed and was unanimously endorsed by the council. So the council will be on record as supporting the member unions of the council who have testified.

Now, a good many of our member unions feel that H.R. 696 does not go far enough when it just includes the members of the State legislature. We feel that it should go all the way or some of them do; and also we join with the American Federation of Government Employees and others in supporting the continuation of the Alaska Railroad and likewise we support the position on section 12 of the State, county, and municipal association.

That, Mr. Chairman, I believe concludes the highlights of our statement. I wish to thank you and members of the committee and especially our good friend, Mr. Lankford, for taking time out and sitting in with his committee as he has over the years expressed a great deal of interest in this legislation. It is hard enough for you fellows to find time to attend your own committee meetings but when you get a member who is interested enough to come in and sit on his own time, so to speak, that is something. So we appreciate that very much. Thank you very much, Mr. Chairman.

Mr. ASHMORE. Thank you, Tom. Mr. Lankford has shown a great deal of interest even before this committee started invesigating. His bill is one of the reasons for the investigation.

Mr. WALTERS. Motivating reason, that's right. Thank you.

Mr. ASHMORE. Mr. Tommy M. Martin, vice president, National Rural Letter Carriers' Association.

Mr. MARTIN. Mr. Larson will give our testimony.

Mr. ASHMORE. We will be pleased to hear from you at this time, Mr. Larson. Mr. Larson is president of the National Rural Letter Carriers' Association.

STATEMENT OF CHARLES R. LARSON, PRESIDENT, THE NATIONAL RURAL LETTER CARRIERS' ASSOCIATION

Mr. LARSON. Mr. Chairman, members of the committee, as stated, my name is Charles R. Larson. I am president of the National Rural Letter Carriers' Association, an organization representing 36,700 regular, substitute, and retired rural letter carriers.

I appreciate this opportunity to appear before this subcommittee and express the views of our association. We commend Chairman Ashmore and the committee for their thorough, complete investigation and study of the operation and enforcement of the Hatch Political Activities Act pursuant to House Resolution 406 of the 85th Congress. We also appreciate the interest of other Members of the Congress who have recognized the need for amendments to the act and have introduced legislation in this respect.

This association recognizes that the Hatch Act is a good law. Our experience has shown that it has served its primary objective of protecting Federal employees from political intimidation and pressure. We believe this protection has permitted broader latitude of political interest and participation among Federal employees. It is our desire that the basic provisions of the act which provide worthwhile protections be retained.

Our experience has also shown, however, that the mandatory penalties under the act are too harsh and too rigid. We believe a better operation of the law would be effected with revisions permitting greater discretion in determining the penalties to be imposed for violations. This would provide for penalties more nearly geared to the circumstances and degree of the violation, and would permit a far more just application of penalties in cases of minor violation.

There are many such cases where the penalties under the law have been too severe. To highlight the need of such amendment to the law we refer to the case of two rural carriers from a small town in Pennsylvania. Reported violations of being political candidates for public office were orginally investigated during the fall of 1956 and spring of 1957.

In the State of Pennsylvania, school board directors are elected on a partisan political ballot.

Postal regulations have in the past not been quite clear as to the right of employees to serve in such positions. They may do so in many cases involving appointment and in areas where election is on the basis of a nonpartisan ballot. One of the individuals in the case referred to was requested to be a candidate for the school board back in 1945. He was urged to do this as a public service and consented without the knowledge that this was in violation of the law. Three times he was elected to that position and served his community in an outstanding manner.

Recognition of the service rendered by this rural carrier resulted in another carrier at the same post office being sought as a candidate

in 1951. He consented and was elected. Both were charged for violation. The first individual closed the case insofar as he was concerned by retiring. The second rural carrier, however, still has an appeal pending before the Civil Service Commission.

It is our sincere opinion that both of these cases were honest errors on the part of the employees in that they did not know they were violating the law and were unaware of the fact that a community service of this type could result in removal from their postal positions. They were misinformed as to the law and interpretation of postal regulations on the subject at the time of becoming candidates. Both men served well in the capacity of school board director and even the minimum penalty of 90 days' suspension under present law would appear unduly severe.

It is our opinion that the circumstances of these two cases, the lack of any direct political activity except that of being a candidate, and the splendid record of service rendered the community, as supported almost universally by the citizens of that community, should permit lesser penalty.

We believe that section 2 of H.R. 696, which would permit penalties of less than 90 days' suspension for violations, and which would eliminate the requirements for a unanimous vote by the Commission on appeal are merited and needed changes in the present law.

The National Rural Letters Carriers' Association wholeheartedly supports enactment of H.R. 696 and urges favorable action on the bill by this committee.

I would like to thank you, Mr. Chairman, and members of the committee for this opportunity of appearing and presenting our testimony for the record.

Mr. ASHMORE. Thank you, Mr. Larson. We are glad to have had your statement.

Are there any questions by any members of the committee?

If not, our next witness is Mr. John W. MacKay, president, National Postal Clerks Union.

Mr. LIPSCOMB. Where is Mr. MacKay from?

Mr. ASHMORE. We will let him tell us, John. Do you think he might be from California, being such a good-looking gentleman?

STATEMENT OF JOHN W. MacKAY, PRESIDENT, NATIONAL POSTAL CLERKS UNION

Mr. MACKAY. Mr. Chairman and members of the committee, my name is John W. MacKay, and I am serving as interim president of the new National Postal Clerks Union. Our temporary headquarters are located here in Washington at 918 F Street NW. I represent approximately 25,000 post office clerks throughout the Nation. Our permanent officers will be elected subsequent to our Constitutional Convention now scheduled in the city of Washington, D.C. on May 14–16, 1959.

It is a privilege to appear before this committee to make a statement on H.R. 696, as introduced by your chairman, Congressman Ashmore.

At the outset, we wish to express our approval with the general intent of the legislation under consideration. We favor the amend-

ments provided in H.R. 696, particularly the elimination of the unanimous vote requirement to reduce punishment of any violation under the act to 90 days without pay, in the event the Civil Service Commission decides the accused should not be removed.

In addition, we also favor the repeal of section 12 of the Hatch Act. This would permit increased political activity for employees residing in certain municipalities or political subdivisions of the United States.

While we are in support of the objectives cited above, we believe the proposals do not go far enough to restore political freedom to Federal and postal employees that should be guaranteed under the Constitution of the United States. In this regard, we believe section 4 of the proposed bill, H.R. 696, as it pertains to section 16 of the act, should be modified by deleting paragraph 1, designated as "conditions" on page 3 from line 1 through line 6.

We also favor further deletion in section 4 of the proposed bill by eliminating section 2, subparagraph (b) on page 3 from line 16 through 21. The purpose of these two deletions would serve to provide Federal employees with equal benefits under the act, if so amended, irrespective of location or place of residence. If increased political activity is to be provided for some elements of the Federal employee family, we believe it should be made available to all, irrespective of residence.

However, as mentioned above, we are impressed with the fact that while there is a tendency to modify the harsher restrictions of the existing law, the bill under consideration fails to go far enough in providing the political activity we advocate Federal and postal employees should exercise by virtue of their citizenship. At the present time, such employees are not only restricted by the provisions of the Hatch Act but are also limited by various regulations issued by the Civil Service Commission, evidently in keeping with this law. As a consequence, it has been our experience that many postal employees appear actually afraid to express themselves in any way or to take any action other than to vote occasionally. Frequently, even this is done in a somewhat surreptitious fashion for fear they may be in violation of this law restricting their political activity.

To correct the above situation, we strongly urge the committee consider a further amendment to H.R. 696 to provide for the deletion of the following sentence in section 9, subparagraph (a) of the Hatch Act of 1939, as amended. We would urge the deletion of the following:

> No officers or employees in the executive branch of the Federal Government, or any agency or department thereof, shall take an active part in political management or in political campaigns.

In our opinion, the deletion of the above restriction would contribute immeasurably to increased political activity. At the same time it would not impair the protection afforded Federal and postal employees under various other sections of the act itself. While we do not advocate a return to a system in which Government employees may be victimized or coerced into political activities to which they object, or to a situation in which the maintenance of their position might be jeopardized, we nevertheless believe it possible to establish a formula in this legislation to provide for the protection of the

Federal employee on his job yet grant him the political freedom to which he is inherently entitled under the Constitution of this great Nation.

Mr. Chairman and members of the committee, we are grateful for this opportunity to appear before you at this hearing. May we assure you there is considerable interest among our membership on this legislation. We are very anxious to see a restoration of political rights to which we feel our members are entitled. For your support thereof, we would be extremely grateful. Again, we thank you for giving us this opportunity to express our sentiments on this legislation.

If I may say so in closing, sir, it was our opinion that the statements here this afternoon would be more or less confined to H.R. 696, but in general the many members of our organization have on numerous occasions expressed themselves in favor of repeal of the Hatch Act itself. However, they feel that the one thing that they should have the right to is political freedom and the right to express themselves openly in political campaigns.

Mr. ASHMORE. Thank you, sir, a great deal.

Mr. LESINSKI. Mr. Chairman, one further comment here, Mr. MacKay. I am glad you are here. You mentioned about the restrictions of the Hatch Act which I do agree and do not argue with you on your point for political expression and so forth, but the Executive order has imposed the political restriction on activity of the Federal employees prior to the Hatch Act—postal employees.

Mr. MACKAY. The Executive order of the President prior to the time the Hatch Act was passed?

Mr. LESINSKI. Yes, sir.

Mr. MACKAY. That may be true but we feel that if the Hatch Act, if that section of it could be repealed, that it would set a precedent which may allow for the issuance of a subsequent Executive order that could possibly restore some of their political freedom.

Mr. ASHMORE. Those orders were made a part of the act.

Mr. LESINSKI. That is right. On the other hand, I think we had better be careful how we proceed because an Executive order may follow and tend to destroy everything we try to do here. Let's walk before we run.

Mr. ASHMORE. We ought to go slowly.

Mr. MACKAY. We understand that, Mr. Chairman, and for that reason we saw fit to prepare and submit our statement as it was pertaining to H.R. 696, as it was drafted.

Thank you, Mr. Chairman and members of the committee.

Mr. ASHMORE. Thank you, sir.

We will hear next from Mr. Paul A. Nagle, president of the National Postal Transport Association.

STATEMENT OF PAUL A. NAGLE, PRESIDENT, NATIONAL POSTAL TRANSPORT ASSOCIATION

Mr. NAGLE. Mr. Chairman, my name is Paul A. Nagle. I am president of the National Postal Transport Association representing 30,000 employees of the Post Office Department's Postal Transportation Service.

I want to express to you, Mr. Chairman, my appreciation for the opportunity to appear before you and to commend you for having followed through as you are doing on determining ways in which the Political Activities Act might best be amended. I would like to take an approving look or note of the fact that you are in company with your colleague from the State of Maryland, Hon. Richard E. Lankford, who is here this afternoon, and to point out, as several members of your distinguished committee already have, that this gentleman has identified himself closely with the objectives of your subcommittee.

I would like, also, to follow in the footsteps of my colleagues, Mr. Hallbeck and Mr. Walters, in paraphrasing my statement in order that we might make the best possible time in concluding the deliberations of this subcommittee and say that basically we feel, the National Postal Transport Association feels, that H.R. 696 does provide for very desirable changes in the Hatch Act.

In full awareness of the statement made by the gentleman, the distinguished gentleman from Michigan, Mr. Lesinski, we recognize the hazards of going beyond what the White House executive branch might at any time feel to be acceptable and so we, too, are inclined to be temperate in our approach.

We think that the most important thing, the most important feature of H.R. 696, is section 2, of course, which would make two amendments to section 9. Section 2 of that bill might be liberalized without risk by striking out all after the first sentence. This again, I hasten to add, does not indicate that we believe the two basic amendments proposed by section 2 to be unwise or unacceptable. We think they are exceedingly good. But we also think that within the context of the statements made by the chairman and by the gentleman from Michigan, that we could go beyond that and strike out all of the first sentence in section 9. We also think that in that same vein, sections 15, 16, and 18 might be stricken from the act. H.R. 696 makes provision for changing certain parts of those particular sections of the Hatch Political Activities Act and we believe that if the bill, H.R. 696, were to be extended just a bit further in those several sections, the effect of the bill might be improved while at the same time risking no hazard of professional displeasure at the executive branch level.

As I say, our major concern is with section 9 of the act which would be amended by section 2 of H.R. 696. The liberalization contemplated by section 2 would remove from the Hatch Act the requirement that there be a minimum 90-day suspension for any violation, however slight. The 90-day provision, in turn, is an improvement over the Hatch Act's original requirement that any employee found guilty of violating the act be removed from public service.

Section 2 of H.R. 696 would also liberalize section 9 of the act by eliminating the requirement that a unanimous vote of the Civil Service Commission is required if a penalty short of removal is to be imposed.

The National Postal Transport Association feels that the act should be amended by eliminating everything in section 9(a) except the first sentence. Section 9(a) would then read as follows:

> It shall be unlawful for any person employed in the executive branch of the Federal Government or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof.

H.R. 696 makes no provision for the amendment of section 15 of the act which prohibits public employees from taking any active part in political management or in political campaigns. The National Postal Transport Association feels that section 15 should be repealed and that no person—simply by reason of being a public employee—should be deprived of the right of active political participation.

Section 4 of H.R. 696 is an improvement in the Political Activities Act in that section 16 of the Hatch Act would be amended to provide that under certain circumstances public employees may participate actively in partisan political campaigns up to the level of the State legislature, but participation at the Federal level would continue to be prohibited, and the National Postal Transport Association feels that section 16 should be repealed.

Section 5 of H.R. 696 would liberalize section 18 of the act by striking out the reference to that part of section 12 of the act which prohibits State employees from active political participation. Although this language is an improvement, the NPTA feels that all of section 18 should be repealed.

The National Postal Transport Association wholeheartedly supports the concept that Federal employees should be protected against improper solicitations. In our considered judgment these protections are accomplished by the first eight sections of the Hatch Act and we respectfully recommend that the balance of the act be amended by deletions or modifications as we have proposed in this statement.

Mr. Chairman, on behalf of the members of the National Postal Transport Association, I extend to you our thanks and appreciation for the opportunity you have provided for me to appear before your distinguished committee.

Mr. ASHMORE. Thank you a great deal, Mr. Nagle. We are always glad to have nice things said about us even though we have a lot of bad ones.

The next witness will be Mr. George D. Riley, legislative representative, American Federation of Labor and Congress of Industrial Organizations.

Mr. RILEY.

STATEMENT OF GEORGE D. RILEY, AFL–CIO LEGISLATIVE REPRESENTATIVE

Mr. RILEY. The AFL–CIO joins its unions affiliated to the Government Employes Council in the position set forth in H.R. 696, and at the same time takes note of the fact that H.R. 876 also is pending before this committee.

We believe it important that Government employees be safeguarded from political abuses and at the same time have the rights of other citizens in exercising an untrammeled citizenship at the ballot box.

There is need for relaxing the rigid penalties now provided in law for infractions of the act. In short, the Civil Service Commission needs the prerogatives of exercising discretion in invoking penalties in connection with State, county, and city employees whose pay is derived, in part, from Federal funds. It would seem most wholesome that this broad and important group of public employees should be not subject to the so-called pure politics act generally referred to as the Hatch Act.

There has been no demonstration of the claim that Government employees vote as a bloc, any more than any other segment of our population, thus the votes so cast do not constitute any great weight in one direction or another. It, therefore, is evident that Government employees are by no means a "machine" voting bloc. The evidence extended over the years is ample demonstration that this is a fact.

Good citizenship demands that Government employees have all the rights accorded them under the Constitution, not to be abridged by laws designed to hedge and hem them into a confined area. Their active interest in vital issues at whatever levels of government involved must be theirs without the artificiality of restraining statute.

It was said at the time the Hatch Act was being formulated that "clean politics" would result from the legislation. At the time that bill was being shaped, I recall there was much hurrah on the part of the Scripps-Howard newspapers in support of Senator Hatch. "Down the hatch with politics" was one of the tricky slogans in vogue to work up enthusiasm for the bill in 1939.

It will be remembered that the author of the Hatch Act legislation was having some political difficulty in New Mexico, his home State. This had an important bearing on Government employees wherever stationed. It is possible to say, therefore, that the political feuding which was going on in New Mexico was made the concern of all the other 47 States. A political brushfire in one State was made, by the Congress, the concern of the entire United States.

I had occasion upon enactment of the so-called clean politics act to examine the proposed regulations under that act. I recall that it was the general purpose of the regulations which were to interpret the act that unless the employing agency decided there was a violation by an employee that, in fact, there was no violation.

Contingent upon the agency's or Department's decision that there was a violation, the Civil Service Commission did not come onto the scene with its machinery. In other words, there was no violation unless and until the head of the agency so ruled there was a violation. It was not contemplated that the enforcing agency move until a complaint was lodged against the employee.

I cannot say that this is the situation today because I have not been the close observer of this phase of official life that I once was. But I wonder if the same is not still true. To me, this does throw light upon the basic concept of the act, or at least the administrative thinking behind the enforcement.

Under such arrangement, it is not difficult to realize that those who sinned on the "wrong" side could well be those who were to feel the sharp edge of the law. Those who committed wrongs on the "right" side could assume a coloration in harmony with their surroundings and not be suspect.

I think it is fair to say that the Hatch Act was and continues to be a bad-tempered piece of legislation. We still have the Corrupt Practices Act which, in some degree, enters into the Federal employee field. I know of no desire to change that law in any regard.

There are those who may say that persons who do not like limitations upon Federal employment should pack up and go looking elsewhere for jobs where they feeel more comfortable. Such attitude is easy to assume but difficult to defend. We have long since outgrown

such thinking which says if one would serve his Government, he shall first forfeit any rights to the same privileges enjoyed by other citizens.

I wish to call attention to a case of considerable involvement, arising in 1952, of a Government employee who unwittingly became enmeshed in the intricacies and involvements of the Hatch Act. His group was affiliated with the central labor council which was a recognized labor city central body.

The central labor council endorsed certain candidates for political office in 1952, as is common practice for groups at that level in organized labor. The employee in signing his name as secretary pro tem of the central labor council did so only by instruction of the council and in so doing did not in any manner intend to be in violation of civil service rules, practices, or political inhibitions.

At no time did he take part in any positive political action which would have jeopardized his standing in the Federal civilian service, as the records of the council would show.

It is clearly understood that his name appeared upon the stationery of the central labor council as an officer of that council and not as a Government employee solely.

In working up a case against this clerk, it was entirely clear that animus was involved on the part of those who reported that he was politically active. Thus, the situation created was not one involving good faith. Nevertheless, bales of correspondence, hours and days and weeks of Federal and personal funds were spent building up the files against him. The facts showed he was at no time a member of any political organization, nor had he at any time actively participated in any political campaign.

The council is a labor organization and not a political organization. The council did not seek out candidates to endorse but, on the contrary, candidates sought the council's endorsement. I think it fair to say that mere endorsement still is not in violation of the law and does not constitute partisan politics because the council has friends in both parties.

The Hatch Act was primarily directed at Federal elections and in the area of this employee's job there were no Federal elections as such, certainly not for President and certainly not for any Member of the Congress.

This case was plainly one of mischiefmaking. I believe it could and has been multiplied many times and that the pernicious political law is in itself pernicious.

Involved in the council's activity, of which this employee was acting secretary, were such topics as teachers' salaries, teacher-pupil ratios, a $10 million school bond issue, minimum wages, increase in unemployment compensation and workmen's compensation. These are the subjects which the council covered in its questionnaires to various candidates. Of course such stuff are the prosecutions and persecutions under the Hatch Act made.

In closing, it can be said that H.R. 696 would remove some objections to the act and serve to advance the good cause of free exercise of citizenship.

Mr. ASHMORE. We are glad to have your statement.

Mr. John Bradley Minnick. Mr. Minnick, tell us whom you represent. I don't have it noted here for some reason.

STATEMENT OF JOHN BRADLEY MINNICK

Mr. MINNICK. Mr. Chairman, I am John Bradley Minnick; I am an individual; I am representing no group or organization.

Mr. ASHMORE. You represent the biggest group of most any of us, all the dear people.

Mr. MINNICK. Mr. Chairman and members of the committee, it is awfully good to be here as just a plain, ordinary citizen and Federal employee, and to complete the testimony which I started in Alexandria last June.

Just to recapitulate and summarize my preliminary statement made last June, allow me to observe that the Hatch Political Activities Act of 1939, as amended, to prevent pernicious political activities, has correlative measures in the law known as the Federal Corrupt Practices Act of 1925, as amended, plus numerous miscellaneous related acts, and Civil Service Commission regulations, all of which are conveniently collected in a pamphlet published February 10, 1956, by the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration, Senate Document 98, 84th Congress, 2d session, entitled "Federal Corrupt Practices and Political Activities." We also have the security laws and the loyalty program.

Mr. Chairman, it is recommended that Senate Document 98 be made a part of the record of this hearing.

The Civil Service Commission has published a volume entitled "Hatch Act Decisions—Political Activity Cases" of the U.S. Civil Service Commission. It is my understanding that this volume constitutes the "bible" insofar as practice and procedure is concerned in political activity cases. It is a very convenient reference book and in brief tells the story of how the act came into existence and how it has been administered since its inception.

Mr. Chairman, it is requested that this publication, "Hatch Act Decisions," be made a part of the record of this hearing.

Mr. LESINSKI. Mr. Chairman, I recognize the gentleman's sincerity in attempting to bring all of us up to date with the background and one thing and another, but we have the February 10, 1956, report here—that was Senator Hennings' group—and why print it? That is the question I would like to have answered, No. 1.

Mr. MINNICK. Answer No. 1 is that the record of the hearings of congressional committees, at the end of the year, are bound and filed in the Library of Congress.

Mr. LESINSKI. Yes.

Mr. MINNICK. I had hoped that perhaps these could be made a record of this hearing for that purpose.

Mr. LESINSKI. I grant you.

Mr. MINNICK. Maybe it isn't necessary.

Mr. LESINSKI. That is the point; I don't think it is necessary; that is the reason I am asking the question.

Mr. ASHMORE. It would take a great deal of printing. We might incorporate them by reference, which would meet the same purpose without going to the great expense.

Mr. LESINSKI. The book you have in mind there is what, again?

Mr. MINNICK. "Hatch Act Decisions," a publication of the Civil Service Commission.

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Mr. LESINSKI. Wouldn't anyone studying the subject need to have reference to that book?

Mr. MINNICK. He might and he might not, depending on how far he might happen to go. That, incidentally, leads into the reason for this: because this is the type of poster that is published, posted on Government bulletin boards all over the country; and Federal employees are told here that they operate at their peril.

Mr. ASHMORE. I think that would be more appropriate, to include that as part of the record.

Mr. MINNICK. Perhaps it would be better to put this in the record. That was the only point I was making.

Mr. ASHMORE. I think that would be appropriate.

Mr. LESINSKI. The point the gentleman is bringing up has a certain basis to it but, on the other hand, we also have to respect the taxpayers, and so forth, in this problem of ours here. As all of us know, any Federal employee or anyone who is being hurt, and so forth, has the right of appeal to a Member of Congress for clarification of the law. Therefore, even if the gentleman is, himself, or someone is a student of the Hatch Act, say, he has the right to go to the Library or the library of the city and request certain copies from the Library of Congress. A repetition of printing would be expensive, No. 1; and No. 2, as long as the material is there, there would be no need to have it done.

Mr. MINNICK. As far as the printing is concerned, I don't believe there would be any printing cost. It would just be taking a copy of it and bound with the record.

Mr. ASHMORE. That would be just with one record but there may be hundreds of these printed. If you make it a part of the record, it would go in every one.

Mr. LESINSKI. That could be very simply done. We also have the Library under our jurisdiction, too. We have to keep that in mind, too.

Mr. ASHMORE. If you will pass that poster up, we will be glad to include that. I think probably the other would be going a little too far, particularly since they are available to anyone who wishes them, and this document No. 98, there are hundreds around and anyone who wants one can write the committee at any time. Furthermore, our report contains a copy in the back of the Hatch Act in full.

Mr. MINNICK. The other pamphlet is Pamphlet No. 20 which has already been incorporated in the record.

Mr. ASHMORE. Yes; I do not believe it would be appropriate.

Mr. MINNICK. The principal purpose of my testimony is just to examine the matter briefly through the objective method of problem analysis as distinguished from the subjective line of dialectical reasoning. To do this it is only necessary to ask: What? Where? When? How? and Why? It is simply amazing to discover how much you know about a particular problem after you have found the answers to these questions?

Just by way of example, what is the particular problem? The problem is one of basic rules governing our duties and obligations as citizens of the United States when employed in positions of public office.

Where did it come from? The problem originated in our republican system of representative self-government under the Constitution of the United States.

When did the problem begin? The problem began with Executive orders, the earliest of which probably is the one issued by Thomas Jefferson in 1801, mentioned in the testimony. The particular one, I believe, the Hatch Act, stems directly from the Executive order of 1873 which became the basis of the Civil Service rules and all subsequent regulations whether statutory, administrative or judicial. The summary of that is also contained in the hearings at pages 210 and following.

How did this problem arise? It arose through Executive control of the machinery of Government.

Why did the problem arise? That may be a $64,000 question but actually it arose because of abuses of discretion. That is all there is to it.

A little analysis of that sort leads into an examination of the major constitutional issues which were first raised by me last June in Alexandria.

What are the constitutional issues? One of the basic constitutional issues is whether laws passed in pursuance of Executive orders meet the test of the supremacy clause of the Constitution. The second constitutional issue is whether the enactment into law of a whole body of administrative practice and procedure, including the exercise of the judicial function by an executive agency, meets the test of the separation of our powers of government.

On that particular point alone, here in this book, U.S. Government Organization Manual, where it talks about the Civil Service Commission, Office of the General Counsel, Civil Service Commission: enforces political activity restrictions of the Hatch Act, so that the legal staff of the Civil Service Commission is the investigative, prosecutor, judge and jury.

Now, my principal testimony is simply this: The laws passed in pursuance of Executive orders are unconstitutional because they do not meet the test of the supremacy clause of the Constitution. This point has never been discussed, debated or argued politically, legislatively or judicially. If laws are enacted in pursuance of Executive orders, they are not enacted in pursuance of the Constitution. That is what the Constitution says.

> This Constitution and the laws of the United States which shall be enacted in pursuance thereof shall be the law of the land.

On the second point, the laws enacted which gave administrative determinations the force of law cuts directly across the basic fundamental concept of the separation of our powers of government. And the records of the hearings that have been had is one of the finest pieces of committee work investigation that I have seen because it is being done in the objective manner and I want to thank you very much for permitting me, a Federal employee, to come before this committee and testify.

Mr. ASHMORE. We are delighted to have you and you bring up some deep constitutional law, but I believe I have got the answer to part of it here for you. This thing was brought up once before,

this constitutional question; it really went to Court, went to the Supreme Court.

Mr. MINNICK. The constitutional decisions have all rested on whether or not they violate the Bill of Rights: free speech and freedom of activity and so on. There hasn't been any litigation that I know of and in published work I haven't found any raising these particular questions which really go to the heart and substance and the root of it.

Mr. ASHMORE. In the *United Public Workers of America and others* v. *Mitchell*, the Supreme Court said that Congress has the power to regulate within reasonable limits the political conduct of Federal employees in order to promote efficiency and integrity in the public service, and it quotes a couple of cases here and cites other law on other points brought up in that case, but that is right on point as to whether or not the Congress has the right to pass this, although they grow out of Executive orders, the point that you made a while ago. The citation is 330 U.S., page 75. Anyway, we won't try to decide these technical questions of law. That was in 1946 when that case was reported, October term. But it does seem to be right on the point.

We are glad to have your deep thought and study on this subject, Mr. Minnick.

Mr. LESINSKI. For clarification, you are with what part of the Government?

Mr. MINNICK. I am a trial lawyer in the Office of Chief Counsel, Internal Revenue Service.

Mr. LESINSKI. What is your background part of that?

Mr. MINNICK. I am holder of juris doctor's degree, George Washington Law School, student editor-in-chief of the George Washington Law Review which is the only law review which is devoted exclusively to public law. I served a clerkship under the late Chief Judge Harold M. Stephens of the U.S. Court of Appeals for the District of Columbia Circuit. I have engaged in private practice in Fairfax County, Va., and I have served as substitute trial justice and judge of the Juvenile and Domestic Relations Court of Fairfax County.

Mr. LESINSKI. I also am concerned sometimes on the Constitution and Bill of Rights, the bills that pass through; maybe, are we not gradually trying to destroy our Constitution of the United States by various means? I appreciate what you are driving at. On the other hand, I think the chairman clarified that. On the intent, according to the Bill of Rights, you mentioned the point of constitutionality: Is it legal, the Hatch Act?

Mr. MINNICK. In this sense: That the act was passed in pursuance of Executive orders. This law, to answer the question: Where did it come from? The Constitution provides that the laws of the United States shall be made in pursuance of this Constitution; this Constitution shall be the supreme law of the land.

Mr. LESINSKI. The other side of the picture to look at is that it could be for the destruction of the Constitution of the United States—any one man getting in power, regardless whether it is Communist or Socialist or whatever it might be might destroy the Constitution of the United States, the free speech; and elimination of the Hatch Act as

such might be just a requirement to the contrary of what you are trying to propose, might it not?

Mr. MINNICK. No, sir.

Mr. LESINSKI. Definitely could. If you get a group of officials in your Federal Government and only hire certain individuals that follow a certain trend of thought in their mind, they could destroy your Constitution, the Bill of Rights, without the people's knowledge, because of the fact that it would be a 2-year to 4-year term before they are kicked out of office.

Mr. MINNICK. That would happen only if people completely abrogated all of their duties.

Mr. LESINSKI. I recognize the slim chance of doing just that but on the other hand there is a possibility.

Mr. MINNICK. That gets into a discussion of the rules. That is what my testimony is in major part. What are the basic rules governing the duties and obligations of citizens of the United States when employed in positions of public service?

Mr. ASHMORE. You will admit that the Federal Government has the right to regulate its employees as any other government would, or employment agency?

Mr. MINNICK. Yes; regulatory provisions are recognized as necessary because that is part of our system of government. We operate under a code of ethics.

Mr. ASHMORE. The mere fact that this act has incorporated in it some of the things that had, prior to its enactment, been issued as Executive orders would not make that law unconstitutional, would it?

Mr. MINNICK. Not in and of itself, no; but the record of it is such and it is contained in this—here is a quotation from Senator Hatch's explanation. This is the 1940 amendment. "We tried to appropriate the exact language of the act passed a year ago which in turn was the exact language of the rule of the Civil Service Commission." That is rule 4. That came from the Executive order.

Mr. ASHMORE. No doubt it goes back to that.

Mr. CARTER. Let me inquire a little bit further into your reasoning on this constitutional provision. Is there naything in the Constitution that makes it unconstitutional for the Executive to issue Executive orders regulating the employees in the executive branch of the Government?

Mr. MINNICK. The Federal Executive has the power to regulate the employees under his Office.

Mr. CARTER. Is there anything wrong with Congress, in pursuance of an Executive order, passing laws in connection with this matter? The point I am getting at——

Mr. MINNICK. There isn't anything wrong in it.

Mr. CARTER. I don't know whether that particular clause of the Constitution has ever been before the Supreme Court and I don't know what this Supreme Court would do if it got it, but at the same time I seriously doubt the logic under the circumstances since the Executive himself could issue these orders and could issue this same thing and regulate all of the Federal employees.

Mr. MINNICK. But we have this kind of a situation: We have executive agencies performing judicial functions. What has happened to the separation of the powers of Government?

Mr. ASHMORE. This is very interesting to the lawyers here, I am sure, but we are going to have to get along. We will dream over this and talk about it some time later, Mr. Minnick.

Mr. MINNICK. In short, and with all due regard to the splendid work of the subcommittee, we still need to do some work on our basic research and study. In the meantime, I trust that the proposed revisions will be enacted as a result of the excellent progress made in this regard. Mr. Chairman, the subcommittee and its members and staff are to be commended and complimented upon an outstanding piece of investigation into a controversial subject. Thank you for permitting me to add my testimony to what has been done.

STATEMENT OF VAUX OWEN, PRESIDENT, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. OWEN. Mr. Chairman and members of the subcommittee, my name is Vaux Owen. I am president of the National Federation of Federal Employees, which is the largest and also the oldest general organization of Federal employees in the United States.

I wish to express the general approval of our organization of the purposes and intent of H.R. 696, which amends the Hatch Political Activities Act in what we believe to be a constructive way.

May I say at the outset that the National Federation of Federal Employees believes in and supports the fundamental purposes of the Hatch Act.

The purpose of that act was, and is, to curb activities which would impair the efficiency of the public service. The Hatch Act, in our opinion, is a strong bulwark of the career civil service system. It is in the interest of the career employees no less than in the interest of the people and Government of the United States. We do not share the view of those who assert that the Hatch Act "makes second-class citizens of Federal employees." The Hatch Act, on the contrary, protects the career employees from the kind of improper pressures which have no place in career public service, and it does so without doing violence to their basic rights and indeed duties as American citizens. Therefore, we would strongly oppose repeal of the act.

At the same time, we do believe that in the crucible of experience certain features of the law have proved susceptible of improvement, both from the standpoint of the employees and the objective of good government.

Experience also has shown that the penalties provided under the Hatch Act have been, in many instances, too rigid and to harsh. The proposed legislation now under consideration would give the Civil Service Commission substantially more leeway in disciplining employees who have violated the act in varying degrees. We believe that the amendments would not only provide a greater measure of justice under the law but would also make enforcement of the statute far more effective.

The amendments contained in H.R. 696 we believe would, if enacted, remove or at least greatly reduce some of the most serious criticisms which have been leveled against the law since its enactment and would make it more constructive, more workable, and more realistic all around.

To repeat, the National Federation of Federal Employees strongly opposes attempts to repeal the Hatch Act outright.

We do support the purposes and intent of H.R. 696 as being practical recognition that certain provisions of the law could and should be amended in the best interests of both employees and Government. It is our view that it will improve a piece of legislation which we believe to be a vital and indispensably important part of our whole career civil service system.

We urge favorable action on H.R. 696 by the subcommittee.

Mr. ASHMORE. Mr. Devaney is here as chairman of the Legislation and Legal Action Committee of the Arlington County Civil Federation. I understand he wants to make a brief oral statement.

STATEMENT OF WILLIAM B. DEVANEY, CHAIRMAN, LEGISLATION AND LEGAL ACTION COMMITTEE, ARLINGTON COUNTY CIVIC FEDERATION

Mr. DEVANEY. Mr. Chairman and members of the committee, I am William B. Devaney. I am a practicing lawyer in Washington but I am here not in that capacity but as chairman of the Arlington County Civic Federation. The Arlington County Civic Federation is an organization of civic associations in Arlington County. The federation has at the present time approximately 40 associations which are members of the federation. Each civic association represents the citizens in a given area of Arlington County. I am also a member of the Arlington Ridge Civic Association which is a member of the federation.

The individual associations vary greatly in size from about 100 members up to about 700; in the Arlington Ridge Civic Association, with which I am most eminently familiar, it has at this time slightly over 125 members, which means families, not individuals, because a membership includes everybody in a family.

The federation is not open to individual membership but is open only to the civic associations of the county. We have one noncivic association member of the Federation and that is the League of Organized Women Voters.

The position of the federation is fully stated in the resolution adopted by it at its regular meeting held April 7, 1959, with respect to the proposed amendments to the Hatch Act:

Be it resolved, That the Arlington County Civic Federation would favor amendment of section 9(b) of the act (5 U.S.C. 118(i)), to permit the Civil Service Commission to determine by majority vote penalties to be imposed for violation of the act; and be it further

Resolved, That the Arlington County Civic Federation believes that any amendment of the Hatch Act should apply with equal force to all Government employees wherever located and not merely to Government employees residing in the immediate vicinity of the National Capital in the States of Maryland or Virginia or in municipalities or political subdivisions in which a majority or a substantial portion of the voters are employed by the Federal Government; and be it further

Resolved, That the Arlington County Civic Federation is opposed to any amendment of the act to permit participation in partisan political campaigns; and be it further

Resolved, That the chairman of the legislation and legal action committee be authorized to appear before the House Committee on Administration on behalf of the federation to present the foregoing resolution as the position of the federation, and that the secretary be instructed to forward a copy of this resolution to each Virginia Congressman and Senator.

I would be glad to say one very brief word of explanation with respect to the position of the federation. First of all, the federation has and represents the interests of a great many employees living, residing, in Arlington County. Our consideration has been largely of the impact of any amendment of the Hatch Act on those Federal employees in Arlington County which is one of the impacted areas that the chairman made reference to.

We are opposed to any extension of partisan political activity on the part of Government employees, of Federal Government employees. We take no position with respect to the State employees employed by agencies of State governments receiving grants and loans from the Federal Government; but with respect to the Federal employee, the federation was concerned with two primary aspects: First, what would be the effect on the Government employee; and, second, would the proposed amendment encourage wider participation in political activity?

Our conclusion on both questions was in the negative. We concluded that the effect on the Federal employee would be adverse in that it would subject him to increased pressures which in turn would cause more Government employees to refrain from participation in political activities. In Arlington County, with the very large percentage of Federal employees, if those people are prevented or encouraged to abstain from activity of a political nature, it can have serious repercussions. Arlington County has met that by the nonpartisan movement. It has been eminently successful in Arlington County and the federation unanimously concluded that any amendment which would permit Federal employees to participate in nonpartisan—I am sorry, in partisan political activity, would tend to discourage the participation of employees rather than encourage them.

Mr. ASHMORE. You think what we are doing will hurt them instead of help them?

Mr. DEVANEY. Yes, sir, Mr. Chairman.

Mr. ASHMORE. I don't quite get it.

Mr. DEVANEY. The reason for that is this, that over a long period of time it has been the experience in Arlington County that Government employees as a group are reluctant to participate in political activity.

Mr. ASHMORE. Afraid they will violate the law now, but if we changed the law they wouldn't violate it?

Mr. DEVANEY. That is part of the problem, Mr. Chairman. I think to understand the feeling of the Government employee as we have encountered it in our consideration of this proposed amendment, it is necessary to consider, first, the reasons for a Hatch Act, the Executive orders which preceded it were primarily to protect the public as a whole from the misuse of power of patronage. It has come to be considered by the average Federal employee as a protection to him. In other words, it prevents his superiors or other people in the Government from compelling him to contribute to political campaigns, to participate in political campaigns when he does not choose to do so. It has created a merit system and it has taken the Federal employee out of the Federal arena. The Government employee considers this an extremely important and extremely valuable contribution of the act to him. At least the members of the federation were unanimous in their opposition to anything which would change that situation.

To extend the partisan political activity, they feel would tend to cause more Government employees to withdraw into a shell and to

refrain from political activity because of the impairment of freedom of speech and freedom of choice which they now have.

The problem, as we see it, with any extension to participation beyond the municipal or county level would lead to very, very difficult practical problems of administration. For example, the Democratic and Republican Parties, when they have a slate of candidates for the State legislature naturally have a candidate for Governor and for other offices within the State. Frequently, in the course of the campaign, one or more of those candidates will appear on the same platform, on the same program, on the same evening, and you would have, if you said that the Government employee can participate in a political campaign for the State legislature, is he violating the act, if, by happenstance a candidate for Governor, for example, happens to be on the same program? That, to us, seems to be a very difficult practical problem of what would you do with it? Where do you draw the line? That simply bolsters our position, our conclusion that we are opposed to any amendment of the act to permit participation in partisan political activity and we feel that any extension of this sort would impair the enforcement of the Hatch Act and would be contrary to the purpose of the Hatch Act; and one other point: We do favor very strongly an amendment similar to section 2 of H.R. 696 which would lodge in the Civil Service Commission discretionary authority to impose penalties for violation of the act. We further feel very strongly that any amendment in the application of the Hatch Act be uniform to all Government employees wherever they may be, whether they are in an impacted area or whether they are an isolated Government employee in Illinois, Indiana, or somewhere else. We feel that all Government employees should be treated alike and we urge that the committee give serious consideration to making provision of the Hatch Act uniformly applicable to all Government employees, wherever they may be located.

I appreciate very much the opportunity to appear here on behalf of the civic federation and if there is any additional information we can supply to you, we will be very glad to do so. Thank you very much.

Mr. LESINSKI. Mr. Chairman, I have a question. Mr. Devaney, is it not true that not all, but a good portion, of the Federal employees in the area live or were born and live here, in the vicinity; but isn't it true that a large portion, maybe even 50 percent—I don't know what the situation is—up to 40 percent of the Federal employees have their home address outside of the District of Columbia, in Kansas, California, and other places where the regular Federal employee as such is a migratory employee, oftentimes? They still vote back home, not here?

Mr. DEVANEY. I think in many instances that is true, although it poses a problem of people who live in apartments in Arlington County, for example—that would be definitely true of a majority of them. They do maintain a residence in their home State for the purpose of voting. I am not so sure that the people who are homeowners in Arlington County would fall in the same situation. They might or might not. I do not think the percentage would be anything approximating or approaching 80 or 90 percent. I think it would be a very small percentage. It is the people who are living who are home-

owners in Arlington County for the most part who are members of the civic association, and in turn who are represented by the federation.

Mr. LESINSKI. In other words, you state that you prefer, instead of the Federal employee in the vicinity of Washington, instead of being eliminated from the Hatch Act, that he voice his opinion in a civic organization and have the civic organization represent him?

Mr. DEVANEY. I am sorry; I didn't get that.

Mr. LESINSKI. That instead of eliminating the Hatch Act as far as Federal employees are concerned, the District of Columbia, that he, that most of them belong to civic organizations and they have the civic organization speak for them?

Mr. CARTER. On a nonpartisan basis.

Mr. DEVANEY. Let me say as far as political activity is concerned in Arlington County, within the last 10 or 15 years, anyway, the members of the county board, school board, and so forth, have been elected on a nonpartisan basis.

Mr. ASHMORE. They have a right to run and be elected as independents?

Mr. DEVANEY. Correct. Government employees under the regulations issued by the Civil Service Commission have a right to participate in those political campaigns.

Now, it is also true that that individual Government employee under the Civil Service Commission's regulations is entirely free to belong to civic associations. They can belong to clubs; they can belong to various organizations such as the League of Organized Women Voters and other organizations which might be considered political in nature. It is a question—I don't believe that it has even been the position of the Commission that they cannot belong to those organizations; it is a question of participation by those people in political campaigns which is prohibited by the Hatch Act and that would be an actvity which would violate the act if they engaged in it but not the mere membership in an organization.

Mr. LESINSKI. What you are advocating is that the Federal employee has no right to express his opinion on a political, so-called, candidate.

Mr. ASHMORE. In a partisan election.

Mr. DEVANEY. On a partisan basis.

Mr. ASHMORE. Do you think it is better to force him to run as an independent or give him authority to run as an independent and then at the same time tell him he cannot run as a member of a political party? H.R. 696 would tell him he could run as a member of a party, as a candidate, or he could support a candidate who was a member of one of the parties. Is that not better than to say, well, you can run but you have to be an independent? You can't come and associate with the rest of us? Keep your mouth shut when you get to talking about a Democrat or a Republican? Kind of farfetched, isn't it?

Mr. DEVANEY. Perhaps, but I think the point is well taken, Mr. Chairman, but it is the position of the Federation that at the local level, and we can speak only for the area with which we are familiar, where a nonpartisan movement has been in existence for many years and has been very successful, we feel that that has adequately answered the problem of Arlington County and we feel that it would be detrimental to change that because our problem, frankly, in Arlington County is bringing about participation by Government employees.

One of the big stumbling blocks in making a change in the law is whether making the activity of a partisan nature, would that encourage employees to participate and the problem, quite frankly, at the present time we have a Republican administration in office. Now, the average Government employee has this reaction: Do I want to support a candidate for the local county board, for example, in the Democratic Party when I am employed during a Republican administration? Most of them have a mental bloc and they just don't do it. They withdraw and participation is reduced, rather than encouraged, where that occurs.

We feel that that would be detrimental to the interest of Arlington County. Anything that would prevent these people or encourage these people not to participate in the affairs of local government would not be in the interest of good local government.

Mr. ASHMORE. I see your point and I know what you are talking about but I still believe that probably the big difficulty is the fact that people don't want to violate the law. They don't want to lose their jobs and get fired or suspended and get fined because they violated the Hatch Act. That is the reason we want to make it so they can exercise those rights and responsibilities as a citizen without violating the law. We won't argue the question any further.

Mr. DEVANEY. May I say just one word, Mr. Chairman? First of all, I am not and never have been a Federal employee. I am not speaking personally. But in the course of investigating this proposed amendment rather thoroughly, we did encounter many instances of Government employees who indicated that under the present law, even though it is technically prohibited, that there are many subtle, indirect ways in which pressures can be brought on employees to support party candidates and it is that almost resentment of interference with the individual choice of the Government employee which causes those employees to want to maintain the Hatch Act, to oppose any change in the Hatch Act, and say that is based on their experience as Government employees, and I merely air the opinions and experiences of Government employees who have encountered this. I have not personally so encountered it.

Mr. LESINSKI. At this point, I can see another danger again in a situation: If the law says "No," which it does, and still they go ahead and do it, which we all know, but by subtle methods, as you mentioned, it could begin again—maybe I go too far in this matter, I am pretty sure I don't. I know that we have a Communist organization at work in this country, let's not kid ourselves, it is working constantly. It is working damn hard—excuse the language but I leave it in the record—the thing is that this again could be another means of infiltrating into the Federal Government which, of course, they are being constantly watched and so forth—I recognize that—of the subtle way, as you said, which could be very damaging and very effective.

Why not bring it out in the open? The expression was used that the Federal employees are a bunch of nincompoops; they don't know one political party from another. I think that is wrong, erroneous, and so forth. There is one point I do recognize in your statement, which is, that whatever we give one Federal employee, all should be given the same opportunity. On the other hand, I think a Federal employee as any other citizen of the United States should have his

right to express an opinion and to support certain candidates that he feels are proper and do it in the open, not behind the scenes, because that could only stimulate certain activity that we are not seeking to stimulate. We want to destroy that kind of activity. I think we ought to be very careful as to what we propose here along those lines.

Mr. CARTER. Mr. Chairman, there are a couple of questions I would like to ask this witness. Do I understand that in the county which you represent, this federated organization of civic clubs, that the candidates, there is only one ticket, no opposition?

Mr. DEVANEY. No, Mr. Congressman. There has consistently been in Arlington County two parties. I do not know what the situation will be in the elections which will be forthcoming in November in view of the fact that one of the two nonpartisan parties disbanded, but both the Democratic and the Republican executive committees have had under active consideration the running of candidates in Arlington County. The Republican executive committee for Arlington County has announced that it will have a slate of candidates for county board, so it will be the Republican candidates versus the nonpartisan candidates. Whether there will be two nonpartisan parties in the next election, there always have been in the past.

Mr. CARTER. Isn't this really just a subversion of the Hatch Act itself? That is the point I am trying to make here. Your effort to conceal party politics is really an effort to get around the Hatch Act, by subversion and still maintain a contest.

Mr. ASHMORE. It encourages these splinter parties, which is a dangerous thing.

Mr. CARTER. That brings up the next question I had, Mr. Chairman. Is it your position that people who work for the Government shouldn't be, as citizens, interested in some of these important parties, Democratic or Republican or Prohibitionist, or any of the other important parties?

Mr. DEVANEY. No, very definitely not, Mr. Congressman. I think, and I think their rights should be carefully protected to belong to whatever political party they choose to belong to.

The question is really: (1) Do they participate in these elections in behalf of campaigns of those who are Democrats or Republicans, or is it better to remove the nomenclature and have people who are not associated with the Republican or Democratic Parties? In other words, it is the difference between saying that you are supporting a candidate of AIM or ABC, which were the abbreviated names for the two nonpartisan parties of the county for the county board, rather than campaign supporting an individual running for the same position on the Democratic ticket? So long as we have the national parties, many of these employees are reluctant to participate because they are afraid that somebody is going to hold this against them, if they happen to have a different political affiliation, that they won't receive promotions that they are due and all these problems have tended to prevent the fuller and wider participation by Federal employees when they attempt to do it.

Mr. CARTER. I heard your testimony in the first place on that point and I couldn't agree less with you.

There is one more question. Did I understand you to say it was your position that a Federal employee could not attend a meeting and hear

the two candidates for Government just because they were Republicans and Democrats speaking?

Mr. DEVANEY. Not at all. He can attend the meeting. It is a question of his participating. What I was saying: suppose at a meeting at which he is participating as a speaker or whatever his participation might be for the campaign of a——

Mr. CARTER. Nonpartisan candidate.

Mr. DEVANEY. As proposed in this bill, it would permit him to participate in political campaigns of candidates for the State legislature, up to that level. What I was saying is, the practical problem of administration is, suppose that the meeting which he is speaking on behalf of a candidate for the State legislature, this is a joint meeting at which other people——

Mr. CARTER. Democrats and Republicans would participate.

Mr. DEVANEY. On behalf of a candidate for the Governor of the State. As the Hatch Act has consistently been interpreted, frequently, when two purposes in the same meeting overlap, there has been a tendency to say that you cannot do this; so this means it would be very difficult to administer this sort of a provision where you could campaign on behalf of a candidate for the State legislature, you could not campaign in support of candidate for Governor who is on the same ticket, and that seems to us to be a complete inconsistency.

In other words, put it this way: if an amendment were going to be made, it would certainly seem more reasonable to say that you could participate in partisan political campaigns on behalf of all State officials rather than say only to the State legislature level.

Mr. CARTER. I go along with you on that point, but these others——

Mr. LESINSKI. I have a dual question, to save time: No. 1, is there such a thing as a nonpartisan election? And No. 2, is a nonpartisan election oftentimes purposely confusing the people as to what the representation of the individual is?

Mr. DEVANEY. I think to answer your question, Yes, there is such a thing as a nonpartisan election. I do not believe the purpose is to confuse the identity of the national party affiliation of the party who is running. We have experienced this over a long period of time in Arlington County, and I think whether a person is Republican or Democrat has not been a major consideration. When you are considering a member of the school board or a member of the county board, you are looking at his position, the individual who is running for this office and who is not interested—I don't recall any instance where it was widely publicized that the candidate was Democrat or Republican. He is representative of one or the other, the nonpartisan parties; he has his platform. We know what he stands for and select him if he is the best qualified for the office.

Mr. LESINSKI. No further questions.

Mr. ASHMORE. Thank you a lot, Mr. Devaney.

(Discussion off the record.)

Mr. LANKFORD. Thank you, Mr. Chairman. As I said at the outset, I came here to listen, but being a lawyer and a politician, I find it hard to sit still without saying something and I shall be very brief.

There are two points that I would like to bring up. One has to do with the point that Mr. Devany brought up and that is the practical

difficulty of cutting off the political activity of a person at the State legislature level. In Maryland, our members of the State legislature, the Governor and other statewide officers, run at the same time that Members of Congress do and so do the county officials. We run as a ticket or as a slate.

To give an example of it, if a Federal employee were permitted to take active part in partisan politics, up through the State legislature, that would mean that he could not stand at the polls and hand out a sample ballot that had the whole ticket on it. He could only hand out a sample ballot that would carry up through the State legislature, you see. So there are some practical difficulties in this.

My solution to your problem is entirely different from Mr. Devaney's. I say, cut that out and just eliminate "up through the State legislature" which would solve the whole problem. That would have free partisan political activity in all of them.

The second point I want to bring out is one which came to my mind while I was listening to a witness earlier in which it was suggested that clarification of this could be done through report to accompany the bill.

As you will remember, Mr. Chairman, the initial resolution which I introduced and in my testimony on that resolution I said that I had done it becaucse I had found a great deal of uncertainty as to what could and could not be done by Federal employees in the political field under the present law, and part of this was due to an inconsistency in interpretation of the regultions. I do not know whether it is possible or not to have regulations promulgated which would not allow for any inconsistency in their interpretation. I doubt if this is possible. But I certainly think that it would be well within the province of this committee in its report to make it perfectly clear that one of things that is needed is consistency in interpretation and enforcement of the regulations as promulgated by the Civil Service Commission.

An example: One employee, and this I know to be true, one Federal employee was told, absolutely, he could not wear any bumper stickers or any political signs whatsoever on his automobile, at any time. Another employee was told, yes, he could wear them on his automobile except when he was going to and from work; and a third employee was told that he could wear them on his automobile at any time. So this points up what Mr. Devaney has said, that the political activity of the Federal employees has been restricted because of the uncertainy of the Hatch Act.

Mr. ASHMORE. The poor man doesn't know what he can do.

Mr. LANKFORD. Or expect of the Hatch Act.

I think liberalization of it would have the effect of letting them know where they stand so they know what they can and cannot do.

With that, I thank the chairman for this opportunity.

Mr. ASHMORE. Thank you, Dick.

It is now 5:10. We have to go.

(Whereupon, at 5:10 p.m., the hearing was adjourned.)

PROPOSED AMENDMENTS TO THE HATCH POLITICAL ACTIVITIES ACT

WEDNESDAY, MARCH 2, 1960

SUBCOMMITTEE ON ELECTIONS OF THE
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:30 p.m., in room G–53, the Capitol Building, Hon. Robert T. Ashmore (chairman of the subcommittee) presiding.

Present: Messrs. Ashmore, Lesinski, Elliott, Casey, Abbitt, Lipscomb, Chamberlain, and Goodell.

Also present: Julian P. Langston, chief clerk; Samuel H. Still, counsel.

Mr. ASHMORE. The committee will come to order.

Gentlemen, ladies, this is the Subcommittee on Elections of the Committee on House Administration. Most of you have been advised, I am sure, that the purpose of this meeting today is to obtain statements and opinions from representatives of the various executive departments regarding H.R. 696.

(H.R. 696 is as follows:)

[H.R. 696, 86th Cong., 1st sess.]

A BILL To amend the provisions of law relating to the prevention of pernicious political activities (the Hatch Political Activities Act) to make them inapplicable to State and municipal officers and employees, to permit limited partisan political activities by Federal officers and employees in certain designated localities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(a) of the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended (5 U.S.C., sec. 118i(a)), is amended by striking out "The provisions of the second sentence of this subsection shall not apply to the employees of the Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside.".

SEC. 2. Section 9(b) of such Act, as amended (5 U.S.C., sec. 118i), is amended (1) by striking out "by unanimous vote", (2) by striking out "That in no case shall the penalty be less than ninety days' suspension without pay: *And provided further*,", and (3) by striking out "by a unanimous vote".

SEC. 3. Section 12 of such Act, as amended (5 U.S.C., sec. 118k), is hereby repealed.

SEC. 4. Section 16 of such Act (5 U.S.C., sec. 118m) is amended to read as follows:

"SEC. 16. (a) Whenever the United States Civil Service Commission determines that it is in the domestic interest of persons to whom the provisions of this Act are applicable to permit such persons to take an active part in partisan political campaigns involving the municipality or political subdivision in which such persons reside, the Commission shall promulgate regulations permitting such persons to take an active part in partisan political campaigns to

the extent that the Commission deems to be in the domestic interest of such persons, but subject to the following conditions:

"1. The persons must reside in the municipality or political subdivision in the immediate vicinity of the National Capital in the States of Maryland and Virginia, or in municipalities or political subdivisions in which a substantial portion of the voters are employed by the Government of the United States.

"2. Political activity must be limited to partisan political campaigns involving public elective offices of such municipality or political subdivision or involving elections of members of the State legislature who represent such municipality or political subdivision.

"3. Employees are prohibited from engaging in partisan political campaigns on any Federal property or in any building where business of the Government of the United States is carried on.

"(b) The provisions of subsection (a) shall be applicable to the employees residing in the municipalities and political subdivisions which the Commission has heretofore designated under section 16 of the Act prior to this amendment, until such time as the Commission revokes the designation."

SEC. 5. Section 18 of such Act, as amended (5 U.S.C., sec. 118n), is amended by striking out "or in the second sentence of section 12(a)".

SEC. 6. Section 21 of such Act, as amended (5 U.S.C., sec. 118k-1), is amended by striking out ", or 12".

SEC. 7. (a) The first paragraph of section 595n of title 18 of the United States Code is amended by striking out "or by any State, Territory, or possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or possession of the United States or by any such political subdivision, municipality, or agency) in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof,".

(b) The second paragraph of such section is amended by striking out "by any State or political subdivision thereof, or by the District of Columbia or by any Territory or possession of the United States" and inserting in lieu thereof "by the District of Columbia".

(c) The heading of such section is amended to read as follows:

"§ 595. Interference by administrative employees of Federal Government"

(d) That portion of the analysis at the head of chapter 29 of title 18 of the United States Code which reads:

"Sec. 595. Interference by administrative employees of Federal, State, or Territorial Governments."

is amended to read as follows:

"Sec. 595. Interference by administrative employees of the Federal Government."

Mr. ASHMORE. H.R. 696 was introduced January 7, 1959 by me as chairman of the subcommittee to amend the Hatch Act in certain particulars.

After the bill was introduced, we learned that there was some objection by some of the departments to some of the provisions of the bill. At the time it was introduced, we had thought we had rather unanimous opinion for the amendments proposed in the bill. After hearing numerous witnesses on several occasions, we felt that everybody was pretty well satisfied with that we were trying to do, but sometime during the last session we learned that there were some objections. We didn't get around to attending to the matter of going into it further during the last session.

A few days ago we conferred with Mr. Jones, Chairman of the Civil Service Commission and Mr. Meloy, the enforcement officer, and learned more in detail about how some of the other departments felt and as a result of that conference with Mr. Jones and Mr. Meloy, we decided to hold this meeting and give you people an opportunity to tell us how you react to the bill and which provisions you agree or disagree with.

Before we hear from any of the witnesses, I will announce that Mr. Lesinski, Congressman from Michigan is present on my right and we have several other Members on the way over.

We are delighted to have with us, also, Congressman Dick Lankford of the Fifth District of Maryland; Congressman Lankford and Congressmen Broyhill, Roosevelt, and Hyde, I believe, were the members who introduced bills some 2 years ago, wasn't it, Dick, approximately that time, to bring it to a head and was the beginning of our study? Later, this committee made a special study of the Hatch Act.

We are delighted to have Dick with us and I understand Mr. Foley may be in and maybe Mr. Broyhill before we complete our hearing today. These gentlemen represent areas that are contiguous to Washington, D.C., here and I suppose the three of them, Broyhill, Lankford, and Foley represent more Federal employees than any other three Congressmen in the United States. I am sure they do, so naturally, you can see that they have a very great interest in this legislation.

The committee's recommendations on this bill are set forth in the Report of the Special Committee To Investigate and Study the Operation and Enforcement of the Hatch Political Activities Act of the Committee on House Administration, Report No. 2707, dated December 31, 1958. I believe each of you representatives of the departments have a copy of this Report No. 2707? You will find on page 4 our recommendations. I want to read them into the record. H.R. 696 comprises the following recommendations of the special committee which investigated the Hatch Act.

First, the committee recommends amendment of section 9(a) of the Hatch Act by eliminating the present preferential treatment afforded Interior Department employees of the Alaskan Railway, thus placing Alaskan Railway employees under the same political restrictions as are now or might be imposed on employees of the Bureau of Public Roads and other Federal agencies living in such cities as Anchorage, Fairbanks, and Seward.

Second, the committee recommends amendment of section 9(b) of the Hatch Act to eliminate existing provisions requiring a unanimous vote of the Civil Service Commission to impose any lesser penalty than removal.

Third, the committee recommends amendment of section 9(b) of the Hatch Act to eliminate the present severe and harsh 90-day minimum suspension period for violators of section 9(a).

Fourth, the committee recommends the repeal of section 12 and such an amendment to sections 2 and 21 of the Hatch Act as to entirely remove State and municipal employees from coverage under the act, thus returning to the respective States and municipalities the responsibility for regulating the political conduct of their own employees.

Fifth, the committee recommends amendment of section 16 to permit partisan political activity on the local level up to the State legislature on the part of Federal employees in federally impacted areas in nearby Maryland and Virginia and elsewhere throughout the United States.

53699—60——4

Our investigation and information up to this time has revealed no objection to the first recommendation. It may be technical in a sense, particularly those of you who do not know what the situation is in Alaska but it is a more or less clarifying amendment that would put the people in Alaska, Federal employees there, in the same basis as people in the United States since Alaska has become a State and is no longer a Territory.

Are there any objections from any of the departments on the second recommendation? Mr. Meloy, I believe stated the other day that he knew of none.

Mr. MELOY. Yes, sir, and we recommend it be kept in the bill.

Mr. ASHMORE. I believe the same thing is true of the third recommendation, isn't it, Mr. Meloy?

Mr. MELOY. Yes, sir.

Mr. ASHMORE. Mr. Meloy, was there any objection to the fourth recommendation?

Mr. MELOY. Yes, we opposed the complete repeal of section 12 and suggested to you a compromise that there may be a repeal of the second, third, and foruth sentences of section 12 but we now have a different position on that.

Mr. ASHMORE. We will go into it more in detail. I thought from our conference the other day that something turned up on No. 4. We will take them up in order when we get all this in the record.

I know there are some objections to the fifth recommendation.

We will now proceed to take these witnesses and let them give us their versions of what they think is best. Mr. Brown, Assistant Secretary of Labor, is in somewhat of a hurry. I do not know whether anyone else is particularly anxious to be heard first. Is there anyone else who has a close schedule, that would like to get away as soon as possible? If not, I am going to ask Mr. Brown, Mr. Newell Brown, Assistant Secretary of Labor, to testify at this time.

Mr. BROWN. Mr. Chairman and members of the committee, my concern was for tomorrow, not today. I would like to sit in on the discussion and I hope I would not have to come back tomorrow.

Mr. ASHMORE. We hope that we won't be here tomorrow too. We don't anticipate being here.

STATEMENT OF NEWELL BROWN ASSISTANT SECRETARY OF LABOR

Mr. BROWN. I appreciate the opportunity to express the views of the Department of Labor on H.R. 696, which would amend the Hatch Act in a number of respects. We believe that certain provisions of the bill would substantially and unwisely modify the present policy of Congress limiting political activities of Federal employees and State and local government employees who are employed in connection with federally financed programs

The Hatch Act, passed in 1939, embodied a Federal executive policy which had been in effect for some 50 years. A year after its passage, this policy was extended to State and local employees employed in Federal-State programs. In 1947, the Supreme Court construed the intent of Congress in enacting this law in these words:

The end sought by Congress through the Hatch Act is better public service by requiring those who administer funds for national needs to abstain from active political partisanship.

The Department of Labor believes that this intent has been fulfilled by the operation of the act and that the public service will suffer if the application of the act is narrowed or its provisions otherwise weakened.

We are very much concerned with section 3 of H.R. 696 and related sections 5, 6, and 7, which would repeal the Hatch Act's application to State and local government employees employed in activities financed by Federal grants-in-aid. Our concern stems primarily from the Department of Labor's responsibility with respect to the Federal-State employment security programs, which are administered on the local level by State employment security agencies, the employees of which are paid entirely from Federal grants.

The welfare of millions of workers are closely interwoven with the employment security program. The State employment agencies and their local offices administering State unemployment compensation laws now also act as agents for the Federal Government in receiving claims and paying unemployment compensation benefits from Federal funds for former civilian workers of the Federal Government and for ex-servicemen. The funds which, of course, are paid in unemployment benefits to people outside those categories come from a State fund financed by State employers.

Last year, 6,300,000 nonfarm placements and over 9,750,000 farm placements were made through the public employment officer, some 1,800 of them. In the same year over 5,860,000 persons drew one or more unemployment compensation checks. It has been our aim to keep the program not only free from politics but free from all appearance that political influences play any part in it. If the administering employees are permitted, as H.R. 696 proposes, to associate with partisan political causes, the result may be to change the nonpartisan character of the program in the eyes of the workers within its coverage.

The debates in Congress when the 1940 amendment pertaining to State employees was adopted discussed at length the political pressures to which State employees were generally subject. We believe that this amendment to the Hatch Act has been very effective in preventing such pressures being exerted against, or by, employees of State employment security agencies. We do not think that the essential patterns of State politics have changed so materially since that time as to eliminate the need for continued regulation of these practices.

The repeal of the existing law might well be construed as an assent by Congress to widespread and intensely partisan political activity by employees formerly under the restraint of the Act. Such a construction—harmful enough in itself—would run counter to the existing policy that personnel of State agencies administering the public employment service program under the Wagner-Peyser Act and the unemployment compensation program pursuant to provisions of the Social Security Act and the Federal Unemployment Tax Act, must be employed on a merit system basis which prohibits political activities. The establishment of merit systems for these State employees is required by the Federal laws governing the employment security program.

The sanction for noncompliance with the standards promulgated under the Wagner-Peyser Act and the unemployment compensation laws is the serious one of a finding of State noncompliance with Federal standards. Violations of the Hatch Act, however, may be reached through the imposition of criminal sanctions on individual violators. The Hatch Act provisions also give specific protection to employees against coercive exactions for political purposes which would cease to apply to State employees if H.R. 696 should be passed.

The Department of Labor considers it completely fair and desirable for Federal employees and State and other employees whose employment is principally performed with respect to Federally financed programs to be on the same footing insofar as restraint on political activities is concerned. We understand and are gratified that the volume of cases under the Hatch Act which result in employment dismissal or suspension of Federal or State employees is small. This result, however, does not mean that a deterrent to partisan political activities is therefore unnecessary for these employees or any group of them. It seems rather to denote that the present act is effective and should be retained without crippling amendments.

The fact that a number of the States restrict the political activities of all of their employees, also argues for the continuance of a uniform Federal policy regarding these activities for all State employees engaged in Federal-State programs. Otherwise, in different States an immediate difference in the status of these employees with respect to political matters will occur.

As we understand it, certain nonpartisan political activities may now be engaged in by Federal and State employees pursuant to section 18 of the Hatch Act, and regulations of the Civil Service Commission issued under the act, pertaining to areas of predominant Federal employment. Section 4 of the bill under consideration, however, would authorize the Civil Service Commission to issue regulations permitting certain partisan political activities in areas of predominant employment. We do not favor a relaxation of the prohibition of the act respecting partisan political activities. In any event, section 4 appears objectionable in its present form since, at the very least, it would raise serious problems of interpretion.

Paragraph 2 of the revision of section 16(a) of the act proposed by section 4 of the bill provides that the political activity that would be permitted must be limited to partisan political campaigns involving public elective offices of the municipality or local poltical subdivison or involving elections of members of the State legislature who represent such local entities. Quite aside from whatever merit this proposal may or may not have, it would seem that this language is almost sure of giving rise to major practical difficulties.

It is one of the facts of life that most political campaigns involve candidates on all three levels, local, State, and Federal. It is one thing to say the employees in the Federal employment areas covered by the bill should be allowed to campaign for their municipal officers and their delegates to the State legislature. But the actual campaign and election will usually also involve State and Federal candidates, certainly in even years.

Local candidates appear at the same rallies and on the same programs with candidates for Governor and the United States Congress.

The names of all these candidates usually appear on the same ballot on election day; the campaigns and elections of all three types of candidates are so interwoven as to be practically indistinguishable.

Under the bill, however, it would seem that these inseparably intertwined campaigns and elections would be ones involving local candidates, since those candidates would participate in the campaign and their names would appear on the ballot. The bill, therefore, could readily be interpreted as sanctioning partisan political activity in behalf of national and State candidates because municipal offices, and so forth are also involved in the overall campaign or election.

On the other hand, it is unrealistic to say that this language means that the covered employees may participate in the personal campaign or election of the enumerated local candidates but must maintain a strict status of "hands off" as to the other candidates. In the innumerable cases where, as pointed out above, the campaigns and elections of all three types of candidates are so tied together as to be a virtual unity, it is obvious that participation could not be limited to the interests of the local candidate in many cases.

We are concerned about the potential adverse effect of partisian political activities by any group of Federal employees of State employees involved in Federal programs, on the integrity and efficiency of the public service. In addition, we are also concerned about the effect on these employees of withdrawing protections respecting these activities. I understand in this regard that Federal employee union representatives, who have appeared before you from time to time, praise the Hatch Act as a law which is effective in protecting employees from undesirable political pressures. We urge that this protection be continued with respect to all employees now covered by the Hatch Act.

We favor the objectives of section 2 of the bill.

Section 2, which would authorize the Civil Service Commission to exercise more flexibility in suspending employees who are found to be in violation of the act from public office, appears desirable.

Mr. ASHMORE. What about section 3?

Mr. BROWN. We concur in what the Civil Service Commission has said, the representatives of the Civil Service Commission have said with respect to other parts of the bill.

Mr. ASHMORE. Mr. Brown, we are glad to have had your testimony and learn how your department feels regarding some of these proposals.

I would like to ask you first about the latter part of your statement, that is, the partisan, the participation in partisan politics. In our hearings we learned that around in the Washington area, in Maryland and Virginia, that in order to avoid what you are objecting to, participation of Federal employees in political activities—in order to avoid that and get around the law—I won't say get around the law because I believe the law makes it so that you would not have to say "get around it"—would still be complying with the law absolutely, but in order to avoid being criticized and being in violation of the Hatch Act, they have simply set up numerous splinter parties and they participate probably more in those splinter parties than they would in some instances, I am sure, if they were participating in the Democratic or Republican Party, the two major parties. That is, it

seems to me like you are setting up a monster there with greater injury to the country and to our political activities than you would have if you permitted them to take part in local, at least local partisan politics.

Had you thought of that? Has that been brought to your attention? Do you know those conditions exist out here in Maryland and Virginia?

Mr. BROWN. I understand this is typical principally of such federally compacted areas where prohibition, the outlet for political activity is reflected in the setting up of independent, at least nonname, independent parties not affiliated with each of the major national parties.

Mr. ASHMORE. Purely just to avoid the Hatch Act, but it is growing. I do not think that is good for the country. I believe you will agree with us, we don't want a country filled with splinter parties. It has never worked in other countries.

Mr. BROWN. I probably ought to yield to my civil service colleague but I would say to the extent that this is typical, and I think largely restricted to the federally impacted areas, the likelihood of its growth in terms of a French setup, you might say, is pretty remote.

Mr. ASHMORE. It may be remote, but at the same time, we want those people in those areas to have the same privileges as far as practical and reasonable, as other citizens have, not penalize them unreasonably just because they work for the Federal Government.

Mr. BROWN. I might make one comment there: I have been under the Hatch Act as a State employee in New Hampshire working with the employment security program and I am not under it now, of course, but I would say that this position is one that I take with some reluctance. I strongly believe, I know the Secretary strongly believes in the general proposition that people should be, all citizens should be active politically. The only way our Government is viable and a continually strong one.

Mr. ASHMORE. Right in line with the great movement right here in the Nation's Capital to give people the right not only to participate but to run for office and have representation, whereas now even outside of the Capital, they don't have under the terms of the Hatch Act.

Mr. BROWN. I would add here, you have to balance the equities on either side and the damage that would be done to good government, effective government, by injecting partisanship into or the implications of partisanship into the admistration of such a program as that I represent, outweighs this other consideration. I think that was the point of our position.

Mr. ASHMORE. We recognize that they should not become involved in national offices, and we have tried to take care of that, as you know, I am sure, under the language. However, you bring up a point—and it has been brought up before by Mr. Meloy and others—regarding the impracticability, I will say, of a man participating in local election and being on the party ticket and not then being permitted to participate in the higher office level of that same party's candidates.

I think that you do have a point there, of course, but I believe that it could be handled without too much difficulty. Your splinter party people, they are participating and they just take part in the candidacy of those whom they are supporting and although the name might not appear on their party ticket, you can't do much for a candidate in the way of supporting him without mentioning his name and that is what you have to do to make yourself clear. For example: A Federal employee might say, "I am working for John Jones who is running for sheriff or for justice of the peace or city magistrate or city commissioner." It seems like it would be practical to keep it separated.

Mr. BROWN. I might cite the kind of thing that perhaps would point up the kind of thing that we would worry about. Let us take this kind of situation that could easily develop in a municipality in the country. Every local office of the employment service has a certain financing officer whose job it is to determine in regard to claimants who come in, whether or not they are entitled to this week's benefit check.

Let us assume, for the sake of argument, there has been a bitter city election just past and the claimant comes into draw unemployment compensation—the issue is a close one and the certifying officer was on the other side of this particular election, they might even have appeared on the platform at one time or another—if that claimant is denied his compensation for that week, do you suppose you could ever persuade him that the decision was not politically motivated?

This transaction is taking place across the land 2 or 3 million times every week, of course, year in and year out. This is the kind of thing that would take the impartial, the essential impartiality, it would take it away from the program just as when you have a man who is hunting a job for another.

We believe this has to be preserved if the system is going to be an effective one and a respected one.

Mr. ASHMORE. That is in workmen's compensation, a man is out of work and applies for compensation?

Mr. BROWN. This is unemployment compensation.

Mr. ASHMORE. I means unemployment.

Well, I do not see that that is a very analogous situation. If he is unemployed, he should get his compensation. You mean you think that the unemployment compensation commission would go so far in some instances as to refuse to give a man his check for political reasons—partisanship because he is a Republican and the man passing on it is a Democrat or vice versa?

Mr. BROWN. Perhaps I didn't make myself clear. There were a great many close issues. A man who is clearly entitled presumably will always be paid, but there are a great many close issues as to whether or not a man was in fact available for work during the preceding days; whether or not a given job for which he has been exposed is suitable; whether or not he is equipped; he is separated from his employment; what are the issues involved; was this a voluntary quit, or was this a lack-of-work quit? The large bulk of cases are clear cut but there is a very substantial residue where somebody has to take all the facts into consideration—and these facts

are essential to a determination—and come to a judgment, a subjective judgment. It is in that area that I comment.

Mr. ASHMORE. Well, people may do things like that but they are pretty sorry if they do. I really didn't realize they go that far for political reasons.

Mr. BROWN. Let us assume they don't, but would the man disallowed believe it?

Mr. ASHMORE. I think if he has enough facts to make a case or fail to make a case, he either was able to work or was not able to work, he was either fired or he quit. I am not an expert in that field, but I do not know; I just can't conceive of that bringing up many problems.

Mr. BROWN. I wish it were that easy. We could cut down the employment security program a third, perhaps, if they were all clear cut.

Mr. ASHMORE. In the next place, would the man that is passing on his qualifications for unemployment, would he know whether the guy was a Democrat or a Republican or Communist or splinter party member or what? The records would not show it, would they?

Mr. BROWN. No, I was projecting a situation where the two of them had participated on opposite sides in the immediately preceding campaign.

Mr. ASHMORE. That would not happen one time in a thousand where two candidates would face each other. I am not trying to argue with you but I am just trying to put forth my view of the thing.

Mr. LESINSKI. I think you covered the one question I had in mind here, which was that even now if the person drawing unemployment check, an individual, unemployment compensation may be from the opposite party, hairsplitting decision might be administered by—Mr. Brown, you are not under the Hatch Act at the present time, are you?

Mr. BROWN. Yes.

Mr. LESINSKI. Many thousands like you in the Federal Government that are exempt?

Mr. BROWN. I can't tell you the number. Those who hold positions comparable to mine are, but I can't tell you, I do not know that.

Mr. LESINSKI. Approximately how many do you think there would be?

Mr. BROWN. I wouldn't even want to guess.

Mr. LESINSKI. All the Federal agencies, you have all the department heads and the so-called immediate superiors?

Mr. BROWN. That is correct.

Mr. LESINSKI. That would mean, as I had said many thousands, I would not be wrong?

Mr. BROWN. I would not expect so; I just don't know.

Mr. LESINSKI. I can see a danger in the Hatch Act at the present time, Mr. Chairman, under the present farm program which is very voluminous, there are a large amount of Federal employees. The increase was around 10,000 in recent years, that if the Hatch Act was removed, well not to mention a party, but one political party would have quite a large number of so-called orators supporting the party

that is propounding the present farm program which the American public are opposed to—I can see that danger.

Mr. ASHMORE. John, I meant to mention that fact to Mr. Brown. The removal of the Hatch Act, no one in this, in no way in this bill are we trying to repeal or abolish the Hatch Act. It didn't go that far at all. Nobody has suggested that.

Mr. LESINSKI. I appreciate that. That is quite correct. I was making a statement here to the effect that there is inherent danger in something like that.

Mr. ASHMORE. I was talking to Mr. Brown, not you, John, because he was mentioning repealing the act.

Mr. LESINSKI. I have no further questions.

Mr. ASHMORE. Earlier in your statement you said, page 2, the last sentence at the top of the page:

> Our concern stems primarily from the Department of Labor's responsibility with respect to the Federal-State employment security programs, which are administered on the local level by State employment security agencies, the employees of which are paid entirely from Federal grants.

Are they paid fully, wholly from Federal grants?

Mr. BROWN. Yes, sir.

Mr. ASHMORE. That brings to my mind these State employees and I think they are mentioned somewhere else in your statement, who are primarily or principally working for the State. For instance, take a State highway department, they work for the State highway department but maybe on one particular project, say a bridge across a certain railroad or certain river the Federal Government has supplied 10 percent of the funds, yet the man is working 99 percent of the time for the State and gets practically all of his salary, his wages from the State. Under the law as present, if any part of the funds come from the Federal Government, they can come in and take control of that thing and tell that man he has no authority to speak for John Jones for Governor or Joel Broyhill or Dick Lankford for Congress. I think it is unreasonable, don't you?

Mr. BROWN. I am not familiar with the highway program. I would say the principle applies to that part of the job financed by Federal funds at least and perhaps across the board.

Mr. ASHMORE. That is the kind of situation we are trying to avoid, where it is paid entirely from Federal grants, that is another question. It is these borderline questions where they have gone in and tried to take over.

Take a dietitian in a public school, because some of the commodities come from CCC, they can tell that dietitian that she can't take part in political activities. It just gets out of hand. That is what we are trying to stop, trying to put it back in a little more reasonable status. I think situations like that have come up. I am sure on this highway business they have.

Mr. Goodell, do you have any questions?

Mr. GOODELL. Yes. Mr. Brown, at the bottom of page 3, you refer to consideration of the Department of Labor, that it is completely fair and desirable for Federal employees and State and other employees whose employment is principally performed with respect to federally nanced programs to be on the same footing in these matters.

Would this have any vast ramifications outside of the very limited number of areas, as far as this reference you are making here? For instance, where you have all these labor security employees, locally? Normally, they aren't qualified under these other provisions. They aren't in an area where they are inpacted under the provisions of the bill, are they?

Mr. BROWN. I think perhaps we are talking about two different sections of the proposed bill. The section to which I principally addressed my remarks is across the board. It would apply to 1,800—1,650 employment service offices and the central State offices, the other section applying to federally impacted areas.

Mr. GOODELL. Do you have any objection, then, to the federally impacted portion of it?

Mr. BROWN. Yes, I do.

Mr. GOODELL. But not on this ground?

Mr. BROWN. No. Well, yes, generally speaking on that ground. At the end of my remarks there is a comment on it. That would be the general ground. These people are Federal employees and——

Mr. GOODELL. Do you think that the fact that their activities are labeled Democratic or Republican is going to make very much difference? We have the splinter situation developed to avoid the act. Does the designation Democrat or Republican make that much difference on it?

Mr. BROWN. I simply say that if you make an exception in that case, I do not know where you would stop and if you feel that exceptions should stop somewhere, perhaps you ought to start.

Mr. GOODELL. Of course the whole objective is to allow as many of our citizens to participate as fully as we possibly can. So, it is a question of drawing the line a little further along to allow more of them to do it. We all agree we have to draw it somewhere short of where we would like to for practical reasons.

Mr. BROWN. This is a general reaction of mine. I think perhaps the representative of the Civil Service Commission might be better able to give you the rationale on the impacted area side of the argument.

Mr. GOODELL. I have no further questions.

Mr. ASHMORE. That brings to my mind another point or the same point reoccurs to me. We discussed with Mr. Meloy and Mr. Jones here some couple of weeks ago this point of how far you should go. Of course we all recognize that that is the problem. It was suggested, and I still suggest the same thing to you, that rather than going up to the level of State, Members of the State legislature, and which would include the members of the State house of representatives and State senate, what would you think of going up to any office about which there could be no question as to whether or not it was purely a local office. That is, entirely and locally within the county. An officer whose duty did not require him to go to the State capitol, the sheriff, auditor, clerk of court, whoever the officers are that serve all of their duties wholly within the county. Would that sound more reasonable to you than including the members of the legislature?

Mr. BROWN. I do not think it gets around the principal point I have tried to make here, that this would be feasible, I suppose, for instance, in odd-year elections for municipal offices, but in let us say even-year elections, everybody appears on the same ballot and whether a man

could turn off his partisan enthusiasm like a tap, up to the level of municipal, or turn it on up to that point and turn it off and on in alternate years whether that is a practical situation, I seriously question.

Mr. ASHMORE. Do you think it practical for these people in splinter parties to say they are working for a member of a splinter party and they have no interest in the Member of Congress or the Governor or the U.S. Senate? How are you going to separate those? It may not be on the same ticket, but they are under certain restrictions. They know what they can say and what they can't say. The same would be true if you had county level offices in the category: that would be permissible.

Mr. BROWN. I would comment, of course, whether it be splinter or Republican or Democrat, they are exercising their rights of citizens and actively political although the party is independent by label.

Mr. ASHMORE. We don't want to force people to go into their splinter party in order to exercise that right of citizenship. That is what we are doing under present law. Isn't that correct?

Mr. BROWN. I have no further comment.

Mr. ASHMORE. Okay, I am not criticizing you. I am just analyzing the thing.

Joel, you weren't here when I welcomed Dick and I certainly want to welcome you. As I stated then, you people, along with Dick Hyde and James Roosevelt, I think, before John Foley was elected, started this thing. Are you ex officio members of this committee? Would you like to say anything?

Mr. Broyhill, are there any remarks you would like to make at this time?

Mr. BROYHILL. Mr. Chairman, I have just a few comments to make later on.

Mr. ASHMORE. Dick, would you like to say anything?

Mr. LANKFORD. I do not have anything.

Mr. ASHMORE. By the way, I didn't announce a while ago that Mr. Sam Still, counsel for the committee is here and of course, Mr. Julian Langston, chief clerk for the committee, is also present.

The next witness is Mr. George T. Moore, Assistant Secretary of Commerce.

STATEMENT OF GEORGE T. MOORE, ASSISTANT SECRETARY OF COMMERCE

Mr. MOORE. Yes, Mr. Chairman. I have with me today Mr. Carlton Hayward, our personnel director of the Department of Commerce and Sam Myer, who is his agent, whom I would like to call on.

Mr. Chairman and members of the committee, I appreciate your granting me this opportunity to appear before you concerning H.R. 696, a bill to amend the Hatch Act of 1939, as amended.

H.R. 696 involves two main provisions. In broad terms, it would make the Hatch Act inapplicable to certain State and local employees, and it would broaden the scope of Federal employees' political activity in State and local elections.

The Department strongly recommends against enactment of these two changes.

The nature and merits of the two principal changes may be summarized as follows:

Section 12 of the Hatch Act of August 2, 1939, as added July 19, 1940, and amended June 25, 1948, and May 24, 1959, provides among other things that except for certain elected officials, no officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall: (1) Use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof; or, (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything of value to any party, committee, organization, agency, or person for political purposes; or, (3) take any active part in political management or in political campaigns.

Section 3 of H.R. 696 would repeal this provision.

The Department of Commerce recommends against enactment of section 3 of H.R. 696. The reasons for this recommendation are as follows:

First, the Department now has two broad types of programs involving loans or grants by the United States to State or local agencies: the building of highways, and State marine training activities. The Department contemplates another program involving area assistance. In addition, the Department also administered the civil aviation program for many years. Many millions of dollars are involved in these programs, and it is important to the Department that the public have confidence in the competence, integrity, and nonpolitical character of the staffs working on them, regardless of whether they comprise Federal or State or local employees.

During the nearly 20 years in which section 12 of the Hatch Act has been in existence, it has been an important factor in promoting public confidence in the State and local staffs working on these programs. This confidence in turn has been vital to the success of the Federal programs.

Second, the number of irregularities under section 12 of the Hatch Act which have come to the attention of this Department has been negligible. No substantial amount of expense or time is required of the Department by continuance in effect of the salutary provisions of section 12.

Third, wthout section 12, there is good reason to believe that State and local employees working on activities within the purview of the section would tend increasingly to become politically selected, politically promoted, politically motivated, and politically removed. This tendency undoubtedly would lead to a deterioration in the competence of the staffs administering Federal loans or grants and to the injection of political considerations in to the administration of matters which from the standpoint of both major political parties, as well as the taxpayers, should remain above criticism on political grounds.

Section 16 of the Hatch Act now provides that the Civil Service Commission may authorize, by regulation, employees subject to the Hatch Act to take active part in political management or political

campaigns involving a municipality or other political subdivision in the immediate vicinity of the National Capital in the States of Maryland or Virginia or involving municipalities the majority of whose voters are employed by the Government of the United States, provided the employees reside in the municipality or political subdivision concerned.

Section 4 of H.R. 696, as we understand it, would effect three changes in the present law. First, the execption would apply to "political subdivisions" as well as to municipalities in which Federal employees comprise a specified proportion of the voters. Second, it would reduce the required proportion of Federal employees in the electorate from a majority to a "substantial portion." Third, it would extend the scope of permitted activities to include partisan political campaigns involving elections of members of the State legislature who represent the municipality or political subdivision concerned.

The Department of Commerce recommends against enactment of section 4 of H.R. 696 for the following reasons:

First, section 4 apparently contemplates that employees otherwise subject to the Hatch Act may become involved in running for local office as candidates representing a political party or become involved in political management in connection with the campaign of a party candidate for office.

Such activity under section 16 is now prohibited by the Civil Service Commission, and we think, properly so. The nature of political activity and relationships is such that it is only a short step from becoming involved in local partisan activities to becoming involved in State politics and then in national politics. The Federal service, in our opinion, will be better off, and the taxpayers' interests protected more effectively, if existing law and regulations are left unchanged.

Second, the requirement "substantial portion" appears to be unduly vague. If enacted, moreover, it seems likely to result in very substantial broadening of coverage to include many communities in which Federal employees constitute only a small minority of the voters.

Third, the extension of the exemption to include partisan political campaigns involving elections of members of State legislatures appears to be a particularly unwise change. Obviously, such a change goes far to nullifying the general purpose and effect of the Hatch Act, and it removes the essentially local nature of the exemption.

In all of the foregoing, it must be kept in mind that the employees concerned now have the right to vote for candidates of their choice at all levels. The only restriction now in effect relates to partisan political activity. The proposed changes would permit partisan political activity, by rank and file employees, to the detriment, in our opinion, of the public service.

Mr. ASHMORE. What do you call, Mr. Moore, "partisan political activity"?

Mr. MOORE. I would call very active political work for local parties.

Mr. ASHMORE. Let me tell you how this thing, what a mess this has gotten into, if I recall correctly, from some of these hearings. I think it has been decided in certain instances that a Federal employee might, for instance, carry a sticker advertising the candidacy of Sam Brown for Governor of Maryland on his automobile on weekends when he

is not at work, but he couldn't drive that same car with that same sticker to work on Monday morning because he would be violating the Hatch Act.

Mr. LESINSKI. According to the resolution, he may have a sticker on his home or——

Mr. LANKFORD. Mr. Chairman, if I may interject something there, I think I was the one that originally brought that up. It was the interpretation of the regulations that really caused this problem and there were three interpretations of the same regulation concerning stickers: (1) That he could place it on his car at all times; (2) that he could not place it on his car at any time; (3) that he could place it on his car except when going to and from work.

Mr. ASHMORE. That is the way I understood it.

Mr. LESINSKI. I am sorry, Mr. Chairman, Mr. Lankford, the point that I had, the interpretation that I had was that they may, there can be a sticker on his car or home.

Mr. LANKFORD. I know for a fact that they have been told they can.

Mr. ASHMORE. Mr. Meloy is here. We three Congressmen can stop arguing and let him tell us what is happening.

Mr. LESINSKI. I will have a copy sent up in a hurry.

Mr. BROYHILL. May I add to the confusion of that; they could wear bumper stickers to work but it shows lack of propriety.

Mr. ASHMORE. You see from the statements that there is more and more confusion.

Mr. MOORE. This is a very difficult area, it seems to me, that you people are working so hard to correct and as we look at it, the dangers to us are greater than what we could accomplish.

Mr. ASHMORE. Well, of course, we are all somewhat selfish. I said "we"—I didn't say "you"—we want to avoid, our own personal difficulties and our own personal problems, it is human to do that. At the same time, maybe the rights of the citizenship of this land should come ahead of our own problems. In fact, I think they should.

Mr. LANKFORD. There is one thing I have noticed in both Mr. Moore's and Mr. Brown's statement. They seem to think—I do not know whether this is aimed at us or not—but they seem to think that if anybody gets into politics actively, his integrity is shot to pieces.

Mr. ASHMORE. Shot before he got in there maybe.

Mr. LANKFORD. Both of them use the word "integrity" in their statement in connection with political activity.

Mr. MOORE. We did not get together.

Mr. LANKFORD. No, I didn't say anything about Mr. Brown's statement, but it seemed rather funny you made it; that the minute that anyone engages in politics actively, then his integrity is subject to question.

Mr. ASHMORE. I would just like to ask you gentlemen how much you have done in politics.

Mr. MOORE. A great deal, if that is what you wanted. I apologize.

Mr. LANKFORD. That is what it says.

Mr. MOORE. I know.

Mr. BROWN. I think the word we are looking for more closely is impartiality.

Mr. MOORE. I think it is.

Mr. LESINSKI. Mr. Chairman, I think to show what the problem is, I would like to have the letter I have from the Civil Service Commission which I think should be read at this time. Mr. Roger W. Jones addressed this letter to Hon. Omar Burleson, Chairman, Committee on House Administration, and dated it May 14, 1959.

This is in reference to a recent request from Mr. Langston of your office for comment by the Commission on the provisions of H.R. 696.

The Commission favors enactment of section 1 of H.R. 696 which would delete the last sentence from section 9(a) of the Hatch Act, which sentence reads as follows: "The provisions of the second sentence of this subsection shall not apply to the employees of the Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside."

The Commission favors enactment of section 2 of H.R. 696 which contains the Commission's recommendations for amendment of section 9(b) of the Hatch Act.

The Commission is opposed to the outright repeal of section 12 of the Hatch Act, as provided in section 3 of the bill. We do not object to the repeal of the second, third and fourth sentences of section 12(a) which relate to activity in political management or in political campaigns. We do object to the repeal of the first sentence of section 12(a) which reads as follows:

"No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, or (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes."

Repeal of the second, third and fourth sentences would require a technical amendment to subsection (e) of section 12, i.e., striking out the words "of the first two sentences," as well as the technical amendment to section 18 of the act that is provided for in section 5 of the bill.

The enactment of section 12 was originally suggested by the President on August 2, 1939 (84 Congressional Record, p. 10,747), as remedial legislation. During the course of the bill (which became section 12) through Congress, Senator Neely commented on March 8, 1940, about the "macing" of State employees who work in connection with federally financed activities, (86 Congressional Record, p. 2,567).

Experience gained in almost 19 years of enforcement of section 12 of the act leads us to believe that employees would once again be coerced to make political contributions if the first sentence of section 12(a) were repealed. This type of violation has been the source of frequent complaints to the Commission. It has been included among the charges in many of the 44 cases in which the Commission has found a violation that warranted removal. The only deterrent that we know of to a widespread use of Federal funds to finance political campaigns through the means of coerced political contributions from employees whose salaries are derived from those funds has been the existence of the first sentence of section 12(a) of the Hatch Act, and the knowledge that the Commission stood ready to enforce the penalties provided for in section 12(b).

The States always have, and still have, sole authority to regulate the political activities of most of their employees and are subject to the restrictions of section 12. For example, section 21 of the Hatch Act exempts officers and employees of educational and research institutions. Furthermore, recent court decisions have exempted all State and local agency employees engaged in federally financed activities, if the greater part of their time and the majority of their income is derived from private or other employment not subject to the act.

Hence, as far as the number of covered employees is concerned, any burden that the Hatch Act may be said to impose on the States is slight. On the other hand, the continuance of the first sentence of section 12(a) would insure that Federal funds would not indirectly be used for political purposes.

The Commission opposes the amendment of section 16 of the Hatch Act as provided in section 4 of the bill.

The Executive order background and legislative history of section 16 of the Hatch Act show that the Executive and the Congress intended the provisions of section 16 to be used to permit Federal employees to participate in local municipal political issues which would generally involve bond, tax, and other referendum matters, including running and holding local elective offices if elected as independent candidates.

The proposed amendment of section 16 would convert this provision of law into a vehicle permitting Federal employees to engage without restriction to partisan politics. The practical effect of this amendment would be to nullify the provisions of section 9 for the most part and permit the very thing the Hatch Act was designed to prohibit. Proposals similar to this were defeated in Congress July 10, 1940 (see 86 Congressional Record 9461, 9463), when Representative Dirksen explained, during the debate in the House, the danger in permitting Federal employees to engage in local or municipal partisan politics:

"Mr. DIRKSEN. That is the danger of the second provision of the gentleman's amendment. Let us take a local election involving a county judge who appoints the members of the election board and those who serve as judges and clerks of election. What you do is to contribute to the setting up of a political machine that may affect the result of a Federal election. That is exactly what it will do in every metropolitan center in the country."

The proposed amendment of section 16 would permit Federal employees to run in municipal and county elections for full-time local offices. We have examined the State law and State constitutional provisions of every State in which section 16 privileges have been extended by the Commission and find that for the most part employees could not hold their Federal positions and be members of a State legislature at the same time, and they are prohibited from holding a local, county, or State position in most instances while continuing to hold their Federal positions.

Moreover, other State laws and State constitutional provisions also make the proposed amendment of section 16 impractical. In Virginia, for example, there is in effect a "party plan" which requires every voter registered in the Democratic Party to pledge his support to and vote for the entire slate of Democratic Party candidates at the local, county, State, and national levels. If an employee is permitted to engage in local partisan politics in Virginia he must be allowed to go into county, State, and national partisan politics as well by operation of the State law or else if he refuses, he can be denied the right to vote. In vetoing H.R. 1243, 81st Congress, referred to on page 122 of House report 2707, 85th Congress, President Truman referred to this "party plan" in his veto message on June 30, 1950. (See S. Rept. 2048, 81st Congress, which accompanied S. 3873.)

The real parties in interest in this matter are the Federal employees themselves and it is our belief, as the result of daily correspondence and telephone conversations with employees, that very few of them are desirous of any change in the law because they know that its benefits outweigh the burdens. Civic associations, generally, in nearby Maryland and Virginia, are fearful of any change that would work to the detriment of the Federal employee or of the efficiency of the Federal service.

Sections 5, 6, and 7 contain technical amendments that would be required if section 12 of the act were repealed as provided in section 3 of the bill. Section 5 would be needed if the committee adopts the Commission's recommendation that only the second, third, and fourth sentences of section 12(a) be repealed; sections 6 and 7 would not.

Time did not permit the clearance of this report with the Bureau of the Budget.

By direction of the Commission:

Mr. STILL. Section 9 of the Hatch Act, "all officers, employees that are paid from appropriation to the Office of the President of the United States are exempt."

We had, I believe, the White House send over a list containing thousands upon thousands of names of these various employees that are paid out of the appropriation for the President and the emergency appropriation fund alone, I think, for the President runs into several million dollars.

I was wondering what your attitude would be toward exempting such a large block of Federal employees that were administering funds and then at the same time would cover State highway commissioners. Under the Hatch Act, the State highway commissioners that are appointed, they are subject to the act, but if they are elected, they are not subject, are they?

Mr. MOORE. I think you have to go and find out which State that is in, sir.

Mr. STILL. Yes.

Mr. MOORE. I think those rules change by States.

Mr. ASHMORE. But there are differences.

Mr. MOORE. All the States seem to be different.

Mr. ASHMORE. Whether appointed or elected, it is confusing.

Mr. MOORE. We have, as you well know, in this highway program, some $2 billion a year being spent in the States. On part of it the Government supplies 90 percent of the funds. On the A–B–C program they supply 50 percent of the funds. In agriculture, highway, they supply 100 percent of the funds. That only amounts to $36 or $39 million a year but this is the area we are talking about and this is a difficult area. You all understand this highway situation.

Mr. LESINSKI. At this point, Mr. Moore, isn't it a fact that the State makes the determination, not the Federal Government on these programs? All the Federal Government does is provide funds and the okay of the project.

Mr. MOORE. You just said in your last words the things that are so important, "OK the project."

Mr. LESINSKI. Aren't the employees State employees?

Mr. MOORE. Yes; that is right.

Mr. ASHMORE. Why shouldn't the State control them, then?

Mr. MOORE. Final OK was in the hands of the Bureau of Public Roads.

Mr. LESINSKI. Yes, sir; the State follows the criterion set down by the Federal Government. If the State had followed the criterion set down by the Federal Government then the Federal Government brings the participating share into the program. But it is up to the State to make the decision first.

Mr. MOORE. That is true.

Mr. LESINSKI. Therefore, why would the State employees come under the Hatch Act?

Mr. ASHMORE. Because the Federal Government is putting money in it.

Mr. LESINSKI. I realize that point.

Mr. LANKFORD. If the gentleman will yield at that point, it is not the State employees covered by the Hatch Act who have the determination of where and how Federal funds will be spent.

Mr. LESINSKI. That is right.

Mr. ASHMORE. Correct.

Mr. MOORE. In some cases it could be.

Mr. LANKFORD. I am speaking of my own State of Maryland. The ones who have the determination of where and how the funds shall be spent, assuming that all Federal criteria are met are not under the Hatch Act. It is the poor fellow with the pick and shovel.

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Mr. LESINSKI. That is right. The people, the State highway commission or the engineers, they have determination as to where it goes. In the State of Michigan the highway commissioners should come under this thing, by the way, too, shouldn't they?

Mr. MOORE. I am not familiar with that part; does he?

Mr. LESINSKI. I do not know; I do not think so.

Mr. MOORE. We ought to check and find out.

Mr. LANKFORD. I would like to ask Mr. Still a question. Perhaps he can answer it. Suppose, in an election year, no Federal money is spent in a political subdivision for roads. Are the State roads people in that political subdivision, are the county roads people in that political subdivision, exempt from the Hatch Act?

Mr. STILL. They would be exempt if none of the Federal money was paid to those people during that period.

Mr. LANKFORD. But then the next year they might come under the Hatch Act?

Mr. STILL. That is right; yes, sir.

Mr. LESINSKI. The point I was trying to clarify, Mr. Moore, is the fact that under the farm program the employees are directly under the Federal Government. Definitely. There is no question about it.

Mr. MOORE. Under the farm?

Mr. LESINSKI. The farm program.

Mr. MOORE. The farm program——

Mr. LESINSKI. Yes; in a highway program they are State employees. There is a distinction there, definitely. One is a Federal employee; one is not, but they are both under the same law. Why should that be?

Mr. MOORE. Congress enacted this law.

Mr. LESINSKI. That is right.

Mr. ASHMORE. Now, we are trying to rectify some of those mistakes, Mr. Moore.

Mr. MOORE. I can say this to the committee: We have had only, I think, four complaints in about 9 years, but that doesn't mean that we might not have a lot more real complaints if we didn't have this protection.

Mr. LANKFORD. I can tell you why you haven't had more complaints, because they are scared to do anything since they don't know what they can do under the Hatch Act and what they can't do.

Mr. MOORE. That could be.

Mr. LANKFORD. Sir, you are talking about partisan politics. How do you differentiate between partisan politics, say, in Mr. Broyhill's district where you have ABC and AIM and certainly these are two political entities and they battle each other from all I can gather in the papers. But that is all right because it is ABC and AIM; they are not under the Hatch Act but if you change their names and call them Republicans or Democrats, they would be under the Hatch Act. How do you differentiate there?

Mr. MOORE. I do not know. I don't even try to.

Mr. LANKFORD. Why are you proposing this?

Mr. MOORE. It is a very small area. I think the Federal employees in the District of Columbia—and somebody correct me if my figures

are wrong—not including the Armed Forces are somewhere around 235,000. Am I not correct on that?

Mr. BROYHILL. In the Washington Metropolitan Area, closer to 285,000.

Mr. LANKFORD. Here is the point I am making, sir, that actually what you are opposing is not political partisanship, but you are opposing having them call themselves what they are, Democrats or Republicans.

Mr. MOORE. Possibly that is right and only because we have the administration that is either Democratic or Republican. And I think pressures would be tremendous.

Mr. LANKFORD. I can speak only from my own limited experience. My home is in Annapolis. I know there they can run for city council and so forth. That is a snare and a delusion because everybody knows when a man files in a relatively small town whether he is a Democrat or a Republican. The Democrats or the Republicans may not put up a full slate because one man will run as an independent and then he fills in. It is just hypocrisy, really. That is all that this does, really, is to let him run under his true colors.

Mr. MOORE. I am not arguing on this at all. Please don't misunderstand me, but in many other large cities where you don't have this problem, you have people who come out and run on the ticket. Very often you have both Democrats and Republicans supporting a particular man. You have seen that happen.

Mr. LANKFORD. It doesn't happen very often in my area, sir.

Mr. MOORE. Maybe not; but it has happened in other places in the country.

Mr. BROYHILL. May I make a comment at this point—I planned to make it later in respect to nonpartisan activity in northern Virginia.

These nonpartisan groups are just as much a political organization and political party as the Democrat or Republican Party is. The fact of the matter, if anything, in Arlington County, I think the Independent Party is a little stronger insofar as having workers and good precinct organization.

Now, what we find here is that in some elections the Federal employee can work in the nonpartisan organization ostensibly supporting the nonpartisan candidate but at the same time he will be actively opposing a partisan candidate. The net effect of the present interpretation of the Hatch Act is that the Federal employee can actively oppose a partisan candidate but cannot support one.

Mr. MOORE. Because he is working on the independent ticket.

Mr. BROYHILL. But opposing a partisan ticket—it happened last fall in Arlington County where there were two seats open. They called it an "unholy alliance" between the Democratic and Republican Parties when they nominated two candidates. Of course, Federal employees could actively support the ABC candidate but in doing so they were also actively opposing the Democratic candidate and the Republican candidate.

Two years ago in Alexandria—and I testified before on this example, Mr. Chairman—there were seven Democratic nominees for the city council, seven seats. The Republicans ran no candidates and nominated no candidates but there were seven Democratic nominees running in the general election. My good friend Clint Knight

ran as an independent. Clint wrote me and asked me if I could get a ruling, official ruling from the Civil Service Commission to state that Federal employees could openly support him. I got the ruling for him. I had several good friends among the Democratic nominees but I had to comply with the request of another constituent asking for that ruling from the Civil Service Commission. I obtained that ruling. Clint Knight publicized that ruling to encourage or advise and inform Federal employees that they could come out openly and support him. He got a lot of Federal workers to support him actively but they were opposing one of those seven Democrats. Six Democrats were elected along with Clint Knight.

So, I think there is a degree of unfairness in this act where it permits a Federal employee to have limited privileges to operate through a nonpartisan political party and yet in opposition to our partisan candidates. It is unfair to the Federal employee who is a hard core Democrat or hard core Republican who wants to support his candidate but can't do it while a neighboring Federal employee is going out and opposing his candidate. I think that ought to be corrected, Mr. Chairman.

Mr. ASHMORE. No question about it.

Mr. MOORE. You appreciate, Congressman, did you ask for an opinion—we try to weigh the pluses and the minuses and we come up with this.

Now, I haven't commented on two or three other points in this bill because I think you would refer to the Civil Service or Alaska Railroad or the Department of the Interior and so forth, but these two we feel are important.

Mr. ASHMORE. Let me be sure I got that correct, Joel.

Under the Hatch Act, it is not, it is permissible, no violation of the Hatch Act, in other words, for a man, a Federal employee, to oppose actively, get out and work against a partisan political office-seeker?

Mr. BROYHILL. It doesn't say it quite that way but the effect is the same.

Mr. ASHMORE. I know it is not in there in so many words, but nobody has been prosecuted for opposing one but if he works for somebody under the same circumstances——

Mr. LESINSKI. That is what is the difference.

Mr. ASHMORE. That is what I want to know.

Thank you, Mr. Moore.

Mr. Goodell, did you want to ask him a question?

Mr. GOODELL. No, sir.

Mr. ASHMORE. We now will hear from Mr. Robert A. Forsythe, Assistant Secretary of Health, Education, and Welfare.

Mr. FORSYTHE. This is a long table, do you mind if I move up?

STATEMENT OF ROBERT A. FORSYTHE, ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Mr. FORSYTHE. I might say, Mr. Chairman, that I suppose usually one feels that in any situation such as this when you are coming before a congressional committee or before any public group, it is always an advantage to wait until some of your colleagues have spoken.

After listening to this discussion for the last half an hour, I am not so sure whether it is an advantageous position after the questions that have been asked.

Mr. ASHMORE. Maybe we are convincing somebody.

Mr. FORSYTHE. Mr. Chairman and members of the committee, I welcome this opportunity to present the views of the Department of Health, Education, and Welfare on H.R. 696 which would amend the Hatch Act. The concern of this Department is addressed mainly to those provisions of H.R. 696 which would repeal section 12 of the Hatch Act, prohibiting political activity by State and local employees in Federal grant and loan programs.

At this point it might be well to review for just a moment the scope of the grant programs administered by the Department of Health, Education, and Welfare.

The largest grant program administered by the Department is the public assistance program under which grants are made to help States provide public assistance for four groups of needy people. The programs for which Federal grants are made are old-age assistance, aid to the blind, aid to dependent children, and aid to permanently and totally disabled.

As of December 1959 there were 5,806,000 persons receiving assistance in these federally aided programs. This comprises 2,394,000 recipients of old-age assistance; 2,953,000 recipients of aid to dependent children; 350,000 recipients of aid to the permanently and totally disabled; and 109,000 recipients of aid to the blind.

Mr. LESINSKI. At this point, Mr. Forsythe, do these people come under the so-called Hatch Act?

Mr. FORSYTHE. No. The people who are administering the program, the employees of the local, I am speaking about the total number of employees.

Mr. LESINSKI. They are receiving money from the Federal Government?

Mr. FORSYTHE. Yes; they are receiving State and Federal money for public assistance.

Mr. ASHMORE. That is a good question, John.

Mr. LESINSKI. Your remarks prior to this point, on the Federal highway program, he should be under the Hatch Act, too.

Mr. FORSYTHE. May I pass that question for now, Mr. Congressman? We will get back to it.

The estimated total expenditures for the public assistance programs during the current fiscal year are over $3,500 million. For the Federal share of this, over $2 billion has been appropriated.

Child welfare services, maternal and child health services, and crippled children's services are other programs administered by State and local agencies with the aid of Federal grants.

In the public health field, grants to States and localities include those for general health services, for control of tuberculosis, venereal disease, heart disease and cancer, mental health, and for administration of State water pollution control.

While the child health and welfare services and the public health grants are not of the magnitude of the public assistance grants, nevertheless they total over $75 million.

Those who administer the grant programs and work with it on a daily basis feel that repeal of the section 12 provision of the Hatch Act could well be detrimental to the efficient administration of these programs. It is the strong conviction of the interested offices and officials of the Department who deal with the State agencies that the Hatch Act in actual experience has been a useful deterrent to improper political activity in the States and the application of pressures on employees. State and local administrators and employees in the federally aided programs under this Department are generally aware of the provision and comply with it.

Every attempt is made in the administration of the grant-in-aid programs to maintain political impartiality and to keep out any political overtones. Active political campaigning and and management by employees of grant-in-aid programs would make this most difficult to say the least.

Under various titles of the Social Security Act, and under the Public Health Service Act and the Surgeon General's regulations, it it required, as a condition for State receipt of Federal grant funds, that employees of the State agencies administering the public assistance, child health and welfare, and public health programs come under a State merit system of personnel administration. The Federal standards established under the provisions of these acts call for a State plan including prohibition of political activity by personnel under the merit system in these agencies. The means for securing conformity with the Federal requirements is through notice to the State agency and a hearing to determine whether there has been a failure substantially to comply with the plan. If it is determined that there has been such a failure, no further Federal payments may be made to the State for the program involved. This sanction is so drastic that it would appear generally inappropriate in individual cases of prohibited political activity.

Repeal of section 12 of the Hatch Act would weaken the enforceability of these Federal standards in the case of Federal grant or loan programs which require the establishment of such standards, and leave wholly unprotected by Federal law those programs of this and other departments where the establishment of such standards is not authorized. Currently there is a range in State laws from those with restrictions on political activity comparable to the present Federal provisions to those with a complete absence of any restrictions. We believe that the Federal interest in nonpartisan administration of all the programs in all States would not be adequately protected if section 12 were repealed.

In grant programs, involving persons who may be particularly vulnerable to influence because of their circumstances, employee political activity, for example, by such staff as county welfare directors and caseworkers, could, even if outwardly divorced from their official positions, be misunderstood by recipients.

We believe that section 2 of the proposed bill amending section 9 is desirable. The authorization to the Civil Service Commission of a greater degree of flexibility in assessing penalties for certain types of minor violations would result in more equitable treatment of offenses in relation to their seriousness.

Mr. Chairman, that concludes the formal statement. I might also add at this point, having heard questions on partisan political activity that I may say that I might be even more confusing in my answers because I come from a State from over the river in Fairfax County, where Mr. Broyhill is our Representative.

Mr. ASHMORE. I don't think you can confuse it anymore than it already is, where you have this so-called independent movement and what you have referred to as splinter parties.

Mr. FORSYTHE. I also have lived many years in the State of Minnesota where we are one of two States out there who have a nonpartisan legislature. We have no partisan politics, so to speak, on the party level basis for any county official in the State of Minnesota and no municipal officials. The party level begins with the Government and the State officials.

I thought you might like to recognize that.

Mr. ASHMORE. That it is possible?

Mr. FORSYTHE. Yes, it is possible to have this so-called independent or splinter party group in a State where even aside from the Hatch Act, this has grown up.

Mr. GOODELL. How does it work, then? Do you see any of these nefarious results? These people are exempt from the operation of the Hatch Act now because of their independent setup?

Mr. FORSYTHE. I don't want to get two things mixed up: one is the Hatch Act provision, section 12, that we addressed ourselves primarily here and this other area which I pionted out merely to demonstrate that we do have this nonpartisan factor there.

Now, to answer your question, aside from the Hatch Act, there have been instances in our State's history, I suppose, as in any State where the issue of improper political activity has come up, come to the attention of the people and candidates of one party or the other for Governor or Lieutenant Governor, attorney general have run on platforms including this particular issue of improper political activity.

Mr. GOODELL. How about Federal employees in the area?

Mr. FORSYTHE. No, we have had, at least it has not been called to my attention and I am not aware that we have had any difficulty.

Mr. GOODELL. Your department has not any difficulties?

Mr. FORSYTHE. No, sir, none with regard to my State that has come to my attention.

Mr. LESINSKI. We were in Minnesota a few years back—I wish I had known at that time—that is why election laws are not very well followed in Minnesota.

Mr. FORSYTHE. I think election laws, Mr. Lesinski, are followed quite carefully, I think, in our State.

Mr. LESINSKI. You want to see the report regarding that for a moment?

Mr. FORSYTHE. I would suppose you could get into that under any circumstances.

Mr. LESINSKI. In the States where the Government contributes toward water pollution control, how does the Hatch Act affect that, the cities and municipalities participating in that program?

Mr. FORSYTHE. We will have to distinguish here, too, between the construction grant programs which we had and the grant program which I referred to in here is another grant program under the water pollution control act which is called the control grants through States, as distinguished from the municipal waste treatment.

Mr. LESINSKI. I was thinking about sewage disposal.

Mr. FORSYTHE. That grant program does not come under it. Those are grants, construction grants to communities for the construction of waste treatment facilities on the basis of 70 percent local and 30 percent Federal. It is not Federal, affected by this.

Mr. LESINSKI. They are not affected by it? That is contrary to the State highway, national highway program.

Now, in the school lunch program——

Mr. FORSYTHE. School lunch, we don't have anything to do with. That is the Department of Agriculture.

Mr. LESINSKI. I beg your pardon. That is all at this time, Mr. Chairman.

Mr. ASHMORE. Joel?

Mr. BROYHILL. Mr. Chairman, I am reluctant to be taking the time of the committee by participating as a member of the committee, but since we bring up this example in Northern Virginia as to certain Federal employees more or less being forced to become members of the independent parties and not participate in the partisan activity, Mr. Forsythe, I would like to comment. I think there is a lot to be said in the argument for nonpartisan election for local government but I feel here that many people are using the Hatch Act unwittingly or maybe knowingly as a wedge to force nonpartisan election for local government. I think the merits of that question should be decided by a person without being forced into it by restriction of Federal laws. In many, many campaigns that argument has been used—that we should have local nonpartisan government so the Federal employees could participate in nonpartisan local elections. But as sure as you abandon the two-party system you are going to have an A nonpartisan group and B nonpartisan group and you are going to have partisanship just the same even though it doesn't bear the label, Republican or Democrat. That is why I think the Hatch Act is unfair to partisan organizations and the Federal employees who want to act through the partisan political organization for local offices.

I have no quarrel with whether the community wants to have nonpartisan elections or not. That is beside the point.

Mr. FORSYTHE. I do not think there is any question you are working with and we are testifying here on the question that, I won't call it difficult, it is real tough. It is a question of getting into the area of politics in Government and there are many people, of course, who like to, in general, divorce Government from politics in this country. You will notice here I certainly uphold the dignity of every Congressman and Congress with my statement as I know my colleagues did. At the same time, when our doing this, it seems that somewhere along the line the difficulty we have is that you are considering drawing lines or a line over which somebody cannot step. You have got it here in Virginia. You have got it in Maryland. I suppose the

next question would be if we extend there and then what other areas in the United States would we go into. How far do we go?

In this testimony, so far as our Department is concerned, we took blanket witnesses here and had to address ourselves primarily to section 12 because that is the one where we are extensive in this whole area of public assistance recipients. I, really, I know there is no easy answer to every section you are dealing with and I don't know where I would start or end up if I were trying to solve this problem.

Mr. BROYHILL. I do not think Federal employees, themselves, Mr. Forsythe, are sure what they want. I represent them and I have never been convinced as to what the majority of the Federal employees want insofar as repeal or amendments to the Hatch Act. They don't know for sure themselves.

Mr. ASHMORE. Any other questions? If not, thank you a lot, Mr. Forsythe.

Mr. LESINSKI. I don't want to put you on the spot by any further questions.

Mr. FORSYTHE. Off the record.

(Discussion off the record.)

Mr. ASHMORE. Mr. Meloy, you are the man who has been charged with doing all these things.

Mr. MELOY. Mr. Chairman, this isn't the first time I have appeared before your committee.

I would like to read the letter sent to the Honorable Omar Burleson today which changes the position of the Commission on its report of May 14, 1959, with respect to amendments to section 12 of the Hatch Act.

This letter is dated March 1, 1960, and is addressed to the Honorable Omar Burleson, House of Representatives.

DEAR MR. BURLESON: Reference is made to the Commission's report of May 14, 1959, on H.R. 696, and, more particularly, to the statement therein where it was stated that "time did not permit the clearance of this report with the Bureau of the Budget," also to the Commission's letter of July 2, 1959, wherein your committee was advised that while the Bureau of the Budget had no objection to the Commission's report of May 14, 1959, the Bureau was opposed to any substantive revision of section 12 of the Hatch Act.

A recent series of meetings held by the departments and agencies responsible for the various grant-in-aid programs to States with the Bureau of the Budget and this office has established a firm position to oppose any change of sections 12 and 16 of the Hatch Act.

In accordance therewith, the Commission reiterates and incorporates herein as though set out in full, its report of May 14, 1959, on H.R. 696, except as to its proposed amendment to section 12 of the Hatch Act. With respect to section 12 of the Hatch Act, the Commission is opposed to any amendment or repeal of section 12 of the Hatch Act.

Sincerely yours,

ROGER W. JONES, *Chairman.*

The reason I want to bring this letter to your attention is that the Civil Service Commission is the enforcing agency of section 12. It does not give to the States one red cent. We are not in the business of grant-in-aids to the States but we are the enforcing body and we defer to those agencies which are responsible for the protection of the Federal funds in their grant-in-aid programs and to the decision made at a series of meetings with the Bureau of the Budget.

I want to set the record straight on that. That is the only statement I have today.

Mr. ASHMORE. Mr. Still?

Mr. STILL. Mr. Meloy, did you put a copy of the letter, the May 14 letter, in the record?

Mr. MELOY. I do not know whether you have inserted it or not.

Mr. STILL. Mr. Chairman, with your permission I would like to insert in the record the two letters referred to dated May 14, 1959, and March 1, 1960.

(The letters referred to ordered inserted are as follows:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., March 1, 1960.

Hon. OMAR BURLESON,
House of Representatives.

DEAR MR. BURLESON: Reference is made to the Commission's report of May 14, 1959, on H.R. 696, and, more particularly, to the statement therein where it was stated that "time did not permit the clearance of this report with the Bureau of the Budget", also to the Commission's letter of July 2, 1959, wherein your committee was advised that while the Bureau of the Budget had no objection to the Commission's report of May 14, 1959, the Bureau was opposed to any substantive revision of section 12 of the Hatch Act.

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Sincerely yours,

ROGER W. JONES, *Chairman.*

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 14, 1959.

Hon. OMAR BURLESON,
Chairman, Committee on House Administration,
House of Representatives,
Washington, D.C.

DEAR MR. BURLESON: This is in reference to a recent request from Mr. Langston of your office for comment by the Commission on the provisions of H.R. 696.

The Commission favors enactment of section 1 of H.R. 696 which would delete the last sentence from section 9(a) of the Hatch Act, which sentence reads as follows: "The provisions of the second sentence of this subsection shall not apply to the employees of the Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside."

The Commission favors enactment of section 2 of H.R. 696 which contains the Commission's recommendations for amendment of section 9(b) of the Hatch Act.

The Commission is opposed to the outright repeal of section 12 of the Hatch Act, as provided in section 3 of the bill. We do not object to the repeal of the second, third, and fourth sentences of section 12(a) which relate to activity in political management or in political campaigns. We do object to the repeal of the first sentence of section 12(a) which reads as follows:

"No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, or (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes."

Repeal of the second, third, and fourth sentences would require a technical amendment to subsection (e) of section 12, i.e., striking out the words "of the first two sentences," as well as the technical amendment to section 18 of the act that is provided for in section 5 of the bill.

The enactment of section 12 was originally suggested by the President on August 2, 1939 (84 Congressional Record 10,747), as remedial legislation. During the course of the bill (which became section 12), through Congress, Senator Neely commented on March 8, 1940, about the "macing" of State employees who work in connection with federally financed activities (86 Congressional Record 2567).

Experience gained in almost 19 years of enforcement of section 12 of the act leads us to believe that employees would once again be coerced to make political contributions if the first sentence of section 12(a) were repealed. This type of violation has been the source of frequent complaints to the Commission. It has been included among the charges in many of the 44 cases in which the Commission has found a violation that warranted removal. The only deterrent that we know of to a widespread use of Federal funds to finance political campaigns through the means of coerced political contributions from employees whose salaries are derived from those funds has been the existence of the first sentence of section 12(a) of the Hatch Act, and the knowledge that the Commission stood ready to enforce the penalties provided for in section 12(b).

The States always have, and still have, sole authority to regulate the political activities of most of their employees. Only a limited number of State and local agency employees are subject to the restrictions of section 12. For example, section 21 of the Hatch Act exempts officers and employees of educational and research institutions. Furthermore, recent court decisions have exempted all State and local agency employees engaged in federally financed activities, if the greater part of their time and the majority of their income is derived from private or other employment not subject to the act.

Hence, as far as the number of covered employees is concerned, any burden that the Hatch Act may be said to impose on the States is slight. On the other hand, the continuance of the first sentence of section 12(a) would insure that Federal funds would not indirectly be used for political purposes.

The Commission opposes the amendment of section 16 of the Hatch Act as provided in section 4 of the bill.

The Executive order background and legislative history of section 16 of the Hatch Act show that the Executive and the Congress intended the provisions of section 16 to be used to permit Federal employees to participate in local municipal political issues which would generally involve bond, tax, and other referendum matters, including running and holding local elective offices if elected as independent candidates.

The proposed amendment of section 16 would convert this provision of law into a vehicle permitting Federal employees to engage without restriction in partisan politics. The practical effect of this amendment would be to nullify the provisions of section 9 for the most part and permit the very thing the Hatch Act was designed to prohibit. Proposals similar to this were defeated in Congress July 10, 1940, (see 86 Congressional Record 9461, 9463) when Representative Dirksen explained, during the debate in the House, the danger in permitting Federal employees to engage in local or municipal partisan politics:

"Mr. DIRKSEN. That is the danger of the second proviso of the gentleman's amendment. Let us take a local election involving a county judge who appoints the members of the election board and those who serve as judges and clerks of election. What you do is to contribute to the setting up of a political machine that may affect the result of a Federal election. That is exactly what it will do in every metropolitan center in the country" (86 Congressional Record 9460).

The proposed amendment of section 16 would permit Federal employees to run in municipal and county elections for full time local offices. We have examined the State law and State constitutional provisions of every State in which section 16 privileges have been extended by the Commission and find that for the most part employees could not hold their Federal positions and be members of a State legislature at the same time, and they are prohibited from holding a local, county, or State position in most instances while continuing to hold their Federal positions.

Moreover, other State laws and State constitutional provisions also make the proposed amendment of section 16 impractical. In Virginia, for example, there

is in effect a "party plan" which requires every voter registered in the Democratic Party to pledge his support to and vote for the entire slate of Democratic Party candidates at the local, county, State, and national levels. If an employee is permitted to engage in local partisan politics in Virginia he must be allowed to go into county, State, and national partisan politics as well by operation of the State law or else if he refuses, he can be denied the right to vote. In vetoing H.R. 1243, 81st Congress, referred to on page 122 of House Report 2707, 85th Congress, President Truman referred to this "party plan" in his veto message on June 30, 1950 (see S. Rept. 2048, 81st Cong., which accompanied S. 3873).

The real parties in interest in this matter are the Federal employees themselves and it is our belief, as the result of daily correspondence and telephone conversations with employees, that very few of them are desirous of any change in the law because they know that its benefits outweigh the burdens. Civic associations, generally, in nearby Maryland and Virginia, are fearful of any change that would work to the detriment of the Federal employee or of the efficiency of the Federal service.

Sections 5, 6, and 7 contain technical amendments that would be required if section 12 of the act were repealed as provided in section 3 of the bill. Section 5 would be needed if the committee adopts the Commission's recommendation that only the second, third, and fourth sentences of section 12(a) be repealed; sections 6 and 7 would not.

Time did not permit the clearance of this report with the Bureau of the Budget.

By direction of the Commission:

Sincerely yours,

ROGER W. JONES, *Chairman.*

Mr. ASHMORE. Yes, sir. Mr. Lesinski read it.

The only objection you have is to recommendations four and five, is that it? If you repeal section 12, of course you have five, six, and seven to make technical amendments to.

The recommendation here in the report is what I was referring to.

Mr. MELOY. Yes. You have our position on four. We oppose any change to section 16 as it is now in the Hatch Act.

Mr. ASHMORE. With reference to section 16, Mr. Still wants to ask you a question.

Mr. STILL. I believe, Mr. Meloy, this is the section that does authorize the Civil Service Commission, if they deem it in the interest of these particular areas around Washington here, to allow the Government employees to participate actively in political management, that the Civil Service Commission actually has the authority now, doesn't it, to allow that, what the gentleman from Maryland is seeking.

Mr. MELOY. Yes, I would interpret section 16 to permit the Civil Service Commission by regulations to accomplish very near the same purpose as 696 does. At least I would say up to the county level.

Mr. STILL. Do you know of any instance where the Civil Service Commission has made any real effort since 1948 to reexamine this section 16 in the light of allowing partisan political activity in local elections in Maryland?

Mr. MELOY. No, we have held no public meetings. At the time we made our last decision on the regulations published under 16, we did hold public hearings with the people in the various communities before we arrived at what our regulations should be, but since then we have not held a public hearing.

Mr. STILL. Since you are the chief law enforcement officer of this Hatch Act, would you yourself recommend to the Commission that they reexamine this section 16, or rather, reexamine the domestic

interest of these people in nearby Maryland and Virginia, to see whether it would be advisable in view of the tremendous increase in population in these areas and you have, I do not know how many people are there, but it would certainly seem like that there are enough good employees in these areas for the Civil Service Commission to reexamine that.

It has been discussed here in some of the meetings as to the possibility of getting the Commission to reopen and examine that situation.

Mr. MELOY. Of course, that is a broad question. You asked me if I would recommend to the Commission that we hold hearings to determine whether or not there should be some revision in our regulations. I certainly would have no objection but knowing how the Commissioners feel about it and knowing the background of the regulations, I doubt if it would serve any useful purpose.

I certainly would have no hesitancy concerning the Commission's holding such a hearing but the Commission, with all the knowledge it has of the operation of the Hatch Act, which has been considerable, has taken a rather strenuous position against any change in section 16. Whether or not a meeting with the citizens in the adajcent communities would change that, I do not know.

Mr. ASHMORE. When was that last one?

Mr. MELOY. About 1948.

Mr. ASHMORE. That was a long time ago.

Mr. MELOY. That is right.

Mr. ASHMORE. Under the law who should take the initiative, the people in the community or is it the Commissioner's duty to go out and determine whether or not they think such a change should be made?

Mr. MELOY. Urging on the part of the citizens would have to come about before the Commissioners would set up such a meeting, we have had no request from any citizen, that I know of, or any group of citizens to reopen the question.

Mr. ASHMORE. I doubt if the people generally know that. They just know they had better not participate in political activity. That would be my idea about it.

Mr. MELOY. I imagine it is not generally known now, so much time has passed since 1948.

Mr. STILL. As I understand it, the hearings that were held were held at the request of Congressman Howard Smith.

Mr. ASHMORE. Those people that are now there, weren't there in 1948.

Mr. MELOY. I do not recall how that hearing came about.

Mr. STILL. He asked the Commission to hold the hearings, or at least take some sort of positive action toward looking into the particular section 16 and they did hold hearings. Then they issued a report as well as I remember based on some language that Thomas Jefferson used as to partisan political activity in Virginia.

Of course, neither the Democratic Party nor the Republican Party were even in existence at that time.

Mr. MELOY. Of course, the history of non-participation in political parties and political activities by employees goes back even to George Washington. Under the Civil Service Act, the very first rule promulgated in 1883 was a rule endeavoring to keep politics out of ap-

pointments, promotions, and dismissals of Federal employees under the Civil Service Act and we still retain such a rule.

Mr. LESINSKI. 1783?

Mr. MELOY. 1883. So, the opposition of the Commission to this question is historical.

Mr. LESINSKI. My concern was along the line of questioning that has been involved here. For instance, the employee is a State employee, it is true the State is getting funds from the Federal Government but is not beholden to the Federal Government but the State. He is under the Hatch Act. That rather concerns me at that point. I can understand a Federal employee coming under the Hatch Act but not a man working for the State, like sewage disposal plant or water pollution control. Of course they are State employees. Why the difference? The Federal Government participates in the sewage plant and the employee is not under the act, but of the State, because of the highway program, he is. Why the distinction?

Mr. MELOY. I do not know whether I got your distinction right because the law says if his principal employment is in connection with an activity financed by Federal funds, he is subject to the act.

If your man is in a sewage plant, and if Federal funds are financing that particular activity, wholly or partially, that man is covered by the Hatch Act.

Mr. GOODELL. The distinction there is that Federal funds were used to construct, I presume, and then they ended.

Mr. MELOY. No; the difference in that is, let us go back to the highway; that always confuses us—the Government of the United States, as I understand it, and as we have enforced the Hatch Act under section 12—the Federal Government does not contribute to the maintenance of highways. It contributes to the construction of highways. So, therefore, in your highway department employees who are primarily under this act are those in the construction end and not in the maintenance end.

Now, your sewage plant, I do not know much about that—we have never had a case under the Hatch Act that involved a sewage plant, either city, county, or State, so I do not know how the funds flow.

Mr. GOODELL. Am I correct that State employees, if there were some, or local employees working on construction of the plant, would be under the act if Federal funds are involved?

Mr. MELOY. As far as I can see unless there is something in the basic act providing for the flow of funds that exempts them and I do not know of any such.

Mr. LESINSKI. On that point, in all seriousness now, don't you think it is encompassing too far when the Government puts State employees under the Hatch Act, isn't that too encompassing?

Mr. MELOY. I do not think so, looking at it from years of enforcement. I do not think there are too many State employees or local agency employees who are actually under the Hatch Act in the States. If you look at the State employment generally across the board, then those who would be under the act, I think it would be a very small number.

Mr. LESINSKI. Isn't another danger involved in this problem, an all-encompassing danger, for instance the remarks here by Mr. Forsythe about the people certifying grants from the Federal Govern-

Party and Democratic Party today; so it is easy to define the broad area of activity.

Mr. ASHMORE. When is a man permitted to participate and not permitted to participate? If he is off duty, may he participate?

Mr. MELOY. Not if he is a Federal employee or State employee.

Mr. ASHMORE. Have there not been some decisions to the effect that a man could advocate the candidacy of his friend, John Jones, if he wasn't on duty?

Mr. MELOY. I see what you are thinking about. In a very limited area where people work intermittently. They may work for the the Government 1 day a week such as an adviser or expert. He is subject to the law for the 24 hours on the day he works but he is not subject for the balance of the time when he is not an employee of the Federal Government because of his intermittent employment.

Mr. LESINSKI. As I understand the postal regulations, a postal employee that is such an employee as his principal means of livelihood does not come from the Post Office Department, he may participate in local elections?

Mr. MELOY. You get into a unique situation in the Post Office because you have people who are temporarily and intermittently employed, brought in on an hourly basis. Then later they are employed from a register and work intermittently. Then the first full job that comes up, they go in full time. We have difficulty with the jurisdiction over such intermittent employees because, under our interpretation, unless he is actually employed, he is not subject. So, therefore, you may have a postal employee that would work, say, 1 day a week and he would be subject that 24 hours but not on the balance of the week.

Now, you have Post Office employees who work 2 hours a day continuously, day after day. There they would be subject because in that day and in that week they are working on a 2-hour shift. So you do have some trouble in applying the act to intermittent employees.

Mr. LESINSKI. You and the Post Office ought to get together or somebody because I have had that explained to me very thoroughly and completely and the fact is that the person working part time as a temporary employee in a Post Office Department, a few hours a day, is not his main means of livelihood, bringing home the bacon, that he can participate in partisan politics. He can run for a delegate; he can run for anything that he wants. That is the interpretation I had received.

Now, this again, Mr. Chairman, is one thing that I am not criticizing you, please, but the interpretation of various people.

Mr. MELOY. There isn't any question about it. You ask anyone about the Hatch Act and you will get various interpretations. There is no question about that.

Mr. LESINSKI. I am confused about this letter because this letter says that, that you may put one bumper sign on the Federal employee's automobile, but if he puts on more than one, he is campaigning.

Mr. MELOY. No.

Mr. ASHMORE. Front and back.

Mr. MELOY. You will get into this situation: A man will have 1 on the bumper and about 15 around his car, stuck clear around the

ment? Of course they do not come under the Hatch Act. It might be interpreted some day that they shall come under the Hatch Act.

Mr. MELOY. I do not think I gathered your question.

Mr. LESINSKI. Mr. Forsythe made the remark here covering these various people, recipients of old-age assistance, dependent children, so forth, and these people are not covered by the Hatch Act so the interpretation might be some day that they shall be under the Hatch Act.

Mr. MELOY. I do not see how it could be possible. They are not employees in any sense. I have never known of any restriction on political activity that reaches anyone but an employee, either State or Federal. There are quite a few States with little Hatch Acts but they are all based on employment. That would be the same thing as asking me whether or not all the people who receive retirement funds are subject to the Hatch Act. The answer is no, they are not.

Mr. LESINSKI. I appreciate that because it is quite correct. But, does the law specifically say that they are employees only?

Mr. MELOY. Sure, State or local agency employees.

Mr. LESINSKI. It further says that "full compensation"—

Mr. ASHMORE. Principal.

Mr. MELOY. Principal employment must be in connection with an activity which is financed.

Mr. LESINSKI. Not livelihood, but employment.

Mr. ASHMORE. It didn't say principal amount of money he received but principal employment.

Mr. MELOY. It is based on employment, not on money received.

Mr. ASHMORE. The Federal Government can be furnishing, say only 10 or 15 percent of the money but still he comes under if his principal employment is with the Federal Government.

Mr. MELOY. If fully paid by the State but his employment as a State employee was in connection with the activity that is financed, he would still be subject. Salary has no part to play in the jurisdiction under section 12.

Mr. ASHMORE. There is lot of confusion about that in enforcement.

Mr. MELOY. Every time we have a Hatch Act case the employee says the Federal Government doesn't pay my salary so I am not under the Hatch Act. Well, we say, the law does not say salary, it provides that your employment be in connection with the activity financed.

Mr. ASHMORE. Will you elaborate a little bit on this other point that was so confused, and so many different interpretations have been made on the point, on the phase of whether or not you are engaging in political activities. What constitutes political activity? One enforcement officer or one supervisor may say that one thing does and somebody in another department may say just the opposite. Is that not true?

Mr. MELOY. Any time you have a question of fact to settle whether it be in court, or an administrative body, or in any factfinding body, you will find disputes of fact. Both section 12 and section 9 give you a pretty good clue as to the political activity we are talking about because it must be partisan political activity; and immediately then you go back to the parties and today under the interpretation of the act, section 18 speaks about a political party having electors in the last preceding presidential election, that brings it down to the Republican

car and when it reaches that point, we think that he is taking an active part in a political campaign. So, you have variations on stickers, but that isn't the regulation we follow that you are reading there.

Let me read you what the regulation says:

Badges, buttons, pictures, and stickers—

and I will admit this has been a toughy—

employees may not distribute campaign literature, badges or buttons. They are not prohibited from wearing political badges or buttons or from displaying political posters or pictures in windows of their homes or on their automobiles. However, it is regarded as contrary to the spirit of the law for the public servant to make a partisan display of any kind while on duty conducting the public business.

Here is what you have got. You have the ordinary campaign button, a small button, but your Federal employee has a button about 8 inches across, wearing it. Now, we think that that is going a little bit too far.

Mr. LESINSKI. Seriously speaking, the word, the language you have read there, is in the plural, not the singular.

Mr. MELOY. Sure, he could have two, or maybe three stickers on his car. There is no objection to it.

Mr. LESINSKI. Suppose I have small buttons, which is OK but I can't wear one big one.

Mr. MELOY. We will leave it to your judgment. You have five small ones. Have you have gone so far that a reasonable person would say you have gone beyond expressing your opinion and you are engaging in a campaign? You answer it and that is the answer to your question. That is our problem, to find out the difference between private expressions and interest in fostering someone's campaign.

Mr. LESINSKI. Being technical, a private expression, the words, "private expression," you are interpreting as a display of certain emblems, but the word "private expression" means that the person can speak, which he cannot.

Mr. MELOY. What do you mean—I do not understand you there.

Mr. LESINSKI. You use the word "private expression" didn't you?

Mr. MELOY. That is right. It is exactly what the law says you can do.

Mr. GOODELL. Express a man's opinions.

Mr. MELOY. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. That is right in section 9.

Mr. GOODELL. A broad interpretation of that will allow anything, then they go unlimited.

Mr. ASHMORE. It all depends on who is interpreting it.

Mr. LESINSKI. Excuse me. Can he campaign, then?

Mr. MELOY. No, because if he uses expressions to that extent, he has got beyond private and is taking a part in political campaigns. That is the area that you must regard.

Mr. GOODELL. I can see, Mr. Meloy, where anybody in your position would not want to go very much farther because from your point of view, you are charged with the responsibility of enforcing this thing. On the other hand, I think all of us place a very high value on the

right of the citizen to participate as actively as possible in all types of political activity and I find the objections here stated rather general in nature. I wish you could get it pinned down a little more as to what sort of abuses you think we are talking about in terms of protecting civil service servants from being subjected to pressures of one kind or another. We can talk in terms of integrity of programs and people having confidence in State officials and being administered on a nonpartisan basis. My impression is that most of the important decisions on how it is going to be distributed are made by people who are exempt from this anyway. Is that not true?

Mr. MELOY. You mean money?

Mr. GOODELL. Elected officials are making key decisions.

Mr. MELOY. You are thinking now of the distribution of grant-in-aid moneys?

Mr. GOODELL. Right.

Mr. MELOY. I think that there are broad sweeping grants between State and Federal Government. Someone determines where the money goes. I suppose it is at a very high level.

Mr. GOODELL. Take a highway for instance, a highway situation. The Federal Government is contributing money and we are subject to the Hatch Act. All the employees--I take it a man working on the road is subject to the Hatch Act while he is constructing that road. Where does this man use his office in swinging a pick or putting down the cement on a highway, to influence in any way or interfere in any way with the distribution or anything that is important. How does he use it, politically?

Mr. MELOY. That man couldn't; certainly not your mechanic down the line who is working on the construction wouldn't have any advice on how the money is spent.

Mr. GOODELL. Who would? Who could under this, that we are trying to continue to have covered under the Hatch Act. That you object to having exempted. I do not see it in the highway particularly, as an example of who we are talking about that ought to still be under the Hatch Act, who could abuse it if he isn't?

Mr. MELOY. The philosophy under section 12, is to place the State employees whose activity is in connection with the expenditures of Federal funds, to work upon those projects in which Federal funds went, on the same basis as would the Federal employee.

Mr. GOODELL. Can we make provision, then, that if they have any discretionary powers that they ought to be subject to it. You are including a very big group when you just include everybody that works on any projects where there are Federal funds involved. I would say the vast majority of them there is no chance of any abuse. There is no real good reason for them being under the Hatch Act.

Mr. MELOY. I think the same philosophy exists with State employees as I read the discussions and the hearings on section 12, as it was with Federal employees. If they are going to spend Federal funds or they are working in connection with activities which are financed by Federal funds, then they should be nonpartisan in their political activities.

Mr. GOODELL. If you say they are going to spend Federal funds——

Mr. MELOY. Or work in connection with——

Mr. GOODELL. If you can think of somebody who is sitting up in a high and mighty position who is going to determine for partisan political reasons where these funds are going to be spent, my experience with the way they are normally controlled at the Federal level would not make it possible anyway, but in addition to that, you are including everybody who is involved in the process of any kind of an operation where Federal funds come into the picture, no matter how remote.

Mr. ASHMORE. And every year more and more are coming in.

Mr. MELOY. That is what Congress said.

Mr. GOODELL. This is what we are now considering whether to change.

Mr. MELOY. If Federal employees are prohibited from political activities then Congress wanted the same prohibition on State employees who work in activities financed by Federal funds. That is the philosophy on which section 12 is based.

Mr. GOODELL. We are considering as a practical matter whether a lot of these people who have now come in rather inadvertently, not really anticipated or contemplated when the law was written, really belong under this act and perhaps they ought to be exempted. As I understand it, you appear here and in blank fashion oppose any change. As administrator, I see that it is easier not to have a change, but you ignore the problem, it seems to me, on the scope of this Hatch Act, now in fields we never contemplated.

Mr. LESINSKI. May I comment there, Mr. Meloy? Mr. Meloy is simply interpreting the law, he is not the Commissioners. The Commissioners make the decision as to what should be done.

Mr. GOODELL. I recognize that.

Mr. LESINSKI. So your remarks, I am not trying to defend you but just to keep the record straight.

Mr. GOODELL. He has presented the Commission's opposition; he is representing the Commission.

Mr. ASHMORE. I think it is a good point and I think that it emphasizes the fact that since 1948—and that was the last time consideration was given to matters of this type—the Federal Government's policy has changed greatly and more and more things are coming under Federal control, against my will.

Mr. GOODELL. Mine, too.

Mr. ASHMORE. Nevertheless, I think that that is definitely a reason why we should reconsider and take stock here and determine whether or not we want to keep bringing more and more people under the Hatch Act because that is what we are doing when we put more and more Federal funds out into the various States.

Mr. MELOY. I think this is the proper forum to determine that question.

Mr. ASHMORE. We want to know if you won't agree with us?

Mr. LESINSKI. May I ask one question of Mr. Meloy? In the State of Michigan, the State highway commissioner is elected. He is in charge of the whole State highway program which comes under this grant-in-aid for assistance. Is he under the Hatch Act?

Mr. MELOY. No; if he is elected.

Mr. LESINSKI. He is an elected official and therefore not, but his people below him that he appoints are?

Mr. MELOY. Comparable to your Federal setup under section 9 where the President and the Vice President and the heads of departments which have to do with nationwide laws are also exempt. So, comparable positions of the Federal Government, if carried over into section 12, making them just as equal as possible with the political setup of the Federal Government versus State government. Your Governor is not subject to the Hatch Act, nor the Lieutenant Governor.

Mr. LESINSKI. Agency head appointments?

Mr. MELOY. Agency heads he appoints are subject.

Mr. LESINSKI. How about Cabinet members here in Washington?

Mr. MELOY. In section 9, the heads of departments confirmed by the Senate and having to do with nationwide laws are exempt, true, your State elective officers, Lieutenant Governor and Governor are also exempted but if the head of the department of a State is appointed by the Governor, he is not exempt.

Mr. LESINSKI. Mr. Chairman, the more I hear of this, the more I dislike it.

Mr. GOODELL. May I ask one other question? We are concerned now with the possibility of a Federal aid program in education on a fairly large scale. Would a teacher, if he got Federal aid funds, come under this?

Mr. MELOY. They have been exempt for years. Colleges, universities, are exempt under section 21 of the Act.

Mr. STILL. Mr. Congressman, I have here a memorandum which is a legislative history of the exemption of teachers and persons engaged in such work. (See appendix at p. 112.)

Mr. MELOY. Not scientific, research?

Mr. STILL. They were exempt under an amendment proposed in the Senate a short time after the original act was passed. So, Mr. Meloy did, at a previous hearing, I think, answer that question as to whether teachers under that program would be covered and I believe you told us at that time that they would not be covered.

Mr. MELOY. Section 21 exempts them.

Mr. GOODELL. I regret this is the first meeting of the subcommittee on the Hatch Act since I became a member of the committee.

Mr. ASHMORE. Any more questions?

Mr. BROYHILL. No questions.

Mr. ASHMORE. Thank you a lot, Mr. Meloy. We are glad to have you back with us.

Mr. Broyhill, would you like to make a statement?

Mr. BROYHILL. Mr. Chairman, I realize it is getting late and I have had the previlege on two previous occasions to testify before the committee on this subject and I don't want to take the time to be repetitious this afternoon other than to make a couple of brief observations.

I certainly support the action taken by the committee in reporting the bill previously and I hope that on reconsideration the committee will act favorable on it. I feel this way, Mr. Chairman, that this country of ours and its Government has certainly reached sufficient political maturity in order to prevent certain abuses or usurpation of powers on the part of various Federal officials. They don't need to subject their total number of employees and all the State

employees that receive benefits from the Federal Government to the rights of second-class citizens.

I think the net effect of this Hatch Act is to prevent normal activities on the part of employees, not the preventing of abuse of power in the disbursement of Federal funds for partisan reasons. You will find among the employees themselves one of their greatest fears and concerns is whether or not, if the Hatch Act were repealed, they would be subjected to pressures or punitive actions if they did not take sufficient political activity or if they took too much political activity, and whether they would be subject to punitive action on the part of the employer.

That is why, as a representative of the Federal employer I can't get a real large majority of opinion as to what should be done. They would like to have liberty and freedom. An overwhelming majority would like to have that. Yet they would like to have the certain elements of protection that comes in the Hatch Act, at the same time. It is almost in the category of having a cake and eating it.

I just sent out a questionnaire and I think this would be of interest to the committee and should be included in the record, to all the registered voters in my district and received back replies from close to 20,000. I haven't totaled the exact amount yet but close to 20,000 returns, which is a large percentage of returns, I think every member of the committee would readily agree.

I had a question there that was limited just to Federal employees to answer and 16 percent of the questionnaires that were from Federal employees which indicates the general percentage of the Federal employees to the total population, on the question: "Do you favor liberalizing the Hatch Act to allow Federal employees to take a more active share in partisan political campaigns?" Of this group, 53 percent said "Yes" and 47 percent said "No"; so you can't get a large majority opinion from the Federal employee himself but I think we can do something to modernize and streamline and improve this act and I think the way we could do it is to make the penalty heavier to do those things that were as mentioned by the witnesses here this afternoon, wherein disbursing funds, they use partisan motives; there should be extremely heavy penalties for that. But lessen the penalty or eliminate the penalty for those who, in normal daily activities as American citizens, want to participate in partisan activities.

Out here in our area where over 50 percent of the citizens are Federal employees, they like to participate in citizens' activities, associations, PTA work, yet at a certain point they have to stop. They can't carry on through and act like American citizens.

I have given you some examples of some confusion in the Hatch Act where we permit certain activities on the part of some employees and restrict as to others. I think that all that should be clarified and I think that this bill the committee acted on previously is a step in the right direction; it doesn't go as far as I would like to see it go, but I think we ought to try to go this far to try to give our Federal employees who are American citizens and good citizens—maybe better than the average in America—the right to act as American citizens.

Mr. LESINSKI. I happen to know of a very high official in the Government that received special consideration on his income tax; if he

were not what he is today, he would not have got that consideration. I think your one point you brought out has got merit on that very thing. That is what I am concerned about, too. If the Federal employee plays favoritism in his work toward one person or another, I think that is definitely bad.

Mr. BROYHILL. The penalty should be most severe.

Mr. LESINSKI. That is the reason for the Hatch Act originally. The point you brought out, I think, is very good. It should be pointed up somehow in the future as to what can be done about it but not to allow an individual to speak his mind outside of office hours, I believe, should be reconsidered.

I would like to ask Mr. Meloy a question off the record.

(Discussion off the record.)

(Whereupon, at 4:45 o'clock, the hearing was concluded.)

APPENDIX

RECOMMENDATIONS OF THE SPECIAL COMMITTEE TO INVESTIGATE AND STUDY THE OPERATION AND ENFORCEMENT OF THE HATCH POLITICAL ACTIVITIES ACT, HOUSE OF REPRESENTATIVES, 85TH CONGRESS, 2D SESSION (EXCERPT FROM H. REPT. 2707):

1. The committee recommends amendment of section 9(a) of the Hatch Act by eliminating the present preferential treatment afforded Interior Department employees of the Alaskan Railway, thus placing Alaskan Railway employees under the same political restrictions as are now or might be imposed on employees of the Bureau of Public Roads and other Federal agencies living in such cities as Anchorage, Fairbanks, and Seward.

2. The committee recommends amendment of section 9(b) of the Hatch Act to eliminate existing provisions requiring a unanimous vote of the Civil Service Commission to impose any lesser penalty than removal.

3. The committee recommends amendment of section 9(b) of the Hatch Act to eliminate the present severe and harsh 90-day minimum suspension period for violators of section 9(a).

4. The committee recommends the repeal of section 12 and such an amendment to sections 2 and 21 of the Hatch Act as to entirely remove State and municipal employees from coverage under the act, thus returning to the respective States and municipalities the responsibility for regulating the political conduct of their own employees.

5. The committee recommends amendment of section 16 to permit partisan political activity on the local level up to the State legislature on the part of Federal employees in federally impacted areas in nearby Maryland and Virginia and elsewhere throughout the United States.

RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS, AS CONTAINED IN ITS 30TH REPORT (H. REPT. 2533) FILED AUGUST 8, 1958, DURING THE 2D SESSION OF THE 85TH CONGRESS (RECOMMENDATIONS ORIGINATED IN THE INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE):

Section 12 of the Hatch Political Activities Act prohibits political activity on the part of any officer or employee of a State or local agency whose principal employment is in connection with an activity financed in whole or in part by the Federal Government. The penalty prescribed for a violation of this section is removal from office or employment. In addition, the officer or employee involved may not subsequently be reemployed in any State or local agency of the State in which he was formerly employed for a period of 18 months. At the same time, section 9 of the act, which prohibits political activity on the part of Federal employees, imposes as the penalty for a violation either removal or suspension of not less than 90 days. The subcommittee does not believe the Federal Government is justified in prescribing a more severe penalty for State and local employees than it applies to its own employees. Accordingly, the subcommittee recommends that Congress consider amending section 12 to conform to section 9 of the Hatch Act. In advancing this recommendation, it is not the subcommittee's intent to express an opinion with respect to the merit of prohibiting government employees from engaging in political activity. This, as well as the question of the severity of the penalty, is a matter outside of the subcommittee's purview.

* * * * * * *

8. The subcommittee believes that the Federal Government should take particular care to avoid burdening the States with unnecessary or unreasonable administrative requirements. In accordance with this principle, the subcommittee recommends that Congress, through its appropriate legislative committees, consider:

(*a*) Amending the Vocational Rehabilitation Act to remove the present rigid limitation on State choice of an appropriate agency for administering the vocational rehabilitation program.

(*b*) Repealing section 12 of the Hayden-Cartwright Act of 1934, which requires the State to earmark portions of specific taxes for highway purposes.

(*c*) Amending section 12 of the Hatch Political Activities Act, which prohibits political activity on the part of certain State and local employees, so that the penalty for violation is no more severe than the penalty prescribed for Federal employees under similar circumstances.

(*d*) Amending the Federal Unemployment Tax Act to permit the States freedom to reduce their tax rates for financing unemployment compensation benefits below 2.7 percent of payrolls on a flat rate basis, as an alternative to experience rating, provided that such action does not adversely affect the solvency of a State's trust fund. (H. Rept. 2533, pp. 45, 52.)

STATEMENT OF WILLIAM H. RYAN, PRESIDENT AND LEGISLATIVE REPRESENTATIVE OF DISTRICT NO. 44, INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL–CIO

Mr. Chairman and members of the committee, District No. 44 of the International Association of Machinists, AFL–CIO, is composed of local lodges established throughout the United States and insular possessions, which are made up of members who are employed by the Federal Government as toolmakers, instrumentmakers, machinists, machine operators, aircraft mechanics, auto mechanics, welders, apprentices, and their helpers.

Representatives of District No. 44 of the I.A. of M. have the responsibility of representing and servicing its Federal Government employee members, and have had the privilege of testifying before the various committees of Congress

on thousands of bills affecting Federal employees generally. In our opinion, none of these bills are of more import to the Federal employee than those which relate to the amending of the Hatch Act.

We support the general intent of H.R. 696 in all aspects except the amendment of section 9(a) of the Hatch Act which would eliminate full citizenship rights afforded Department of Interior employees of the Alaska Railroad.

When the Hatch Act became law on August 2, 1939, and was amended on July 19, 1940, it was done so with much waving of the "clean politics banner" and under the guise of "clean politics"; it has had the effect of depriving Federal employees of rights that should belong to all citizens regardless of Federal or non-Federal employment status.

It has been our experience that many provisions of the Hatch Act have brought about a condition whereby Federal employees cannot fully exercise their citizenship responsibilities under our democratic form of government. The restrictive provisions of the Hatch Act have caused our Federal employees to be characterized as "second-class" citizens, despite the guarantees in our Constitution.

It is an accepted fact that freedom is not, and never has been, easy to gain and maintain. Therefore, the erosions of fundamental human rights, and citizenship responsibilities, caused by the Hatch Act; should be corrected as soon as possible.

Approximately one-half of the Federal employment is made up of individuals who have been called upon to risk limb and life on the battlefields of the world defending our way of life, the other half devoted their entire energies and much of their financial resources, and their loved ones, to provide the means for defending our way of life.

Federal employees have contributed much toward the defense of freedom of speech, and the recognized principles and inalienable rights reflected in the Bill of Rights and the Constitution of our United States; yet, they are singularly denied the right to exercise basic civic responsibilities which have done much to preserve our way of life.

We submit for your judgment that it is improper to continue restricting the full citizenship rights and responsibilities of such a large segment of our citizenry; as that segment that is composed of Federal employees.

The restoration of "full citizenship" to the Federal Government employee would in itself reflect to all foreign powers that we have enough faith in our civil service employees to the extent we not only permit them to exercise their "political freedoms" but, in fact, encourage each and every one of them to do so.

The Ashmore bill, H.R. 696, is viewed by this organization as a step in the right direction. We are in accord with its provisions for the liberalization of penalties. We are in accord with the removal of State, county, and municipal employees from the coverage of the Hatch Act. We are in accord with the extension of partisan political rights to the State level for Federal workers in federally impacted areas. But, we do not agree that the existing political rights of employees of the Alaska Railroad should be removed from them.

Mainly, while we agree with most of the features of H.R. 696, we simply do not feel that the legislation goes far enough. We believe that, if the principles involved in several of these changes in the Hatch Act are valid, that it would be illogical to stop at the extent of change required in this bill.

For example, if it is morally and politically sound to remove State, county, and municipal employees from the coverage of the Hatch Act (and we believe that this is so), we find it difficult to see where there is a difference between State, county, and municipal employees, on one hand, and Federal employees on the other, so far as partisan political rights are concerned. The source of political power and influence is at the State political party organizational level. If it is believed that State, county, and municipal employees can have full political rights without endangering the public interest, and without thereby opening up a "spoil system" approach to public jobs; then in what way are Federal employees more vulnerable to political chicanery than are State, county, and municipal employees?

Again, if it is morally and politically sound for Federal employees in federally impacted areas to take active partisan activity up to the State level, why is it wrong to deny other Federal workers, in communities where they are a minority the same rights? Is it that minority rights must be abrogated? Is it that the Congress is attempting to placate a majority in certain areas where it is politically expedient to cater to that majority? If a Federal worker who lives in

Alexandria, Va., has the right to take an active part in the party of his choice, and campaign for candidates for State, county, and municipal offices in the State of Virginia, why is it wrong for a Federal worker who lives in Richmond, Va., to have the same rights as the Federal worker in Alexandria, Va.?

Further, if Federal workers in federally impacted areas can participate actively in partisan politics up to the State level, they can, in this way, exert proper citizenship influence on the State political party to which they subscribe. The State political party, in most of the States, strongly directs the political life of the Nation. If Federal workers may thus be free to influence State partisan politics, is it simply a question of degree between this, and active participation in Federal politics? How is it that a matter of degree can make such a vital difference? How is the dividing line determined?

One of the underlying ideas behind the Hatch Act is to "protect" Federal employees from partisan political exploitation by elected partisan officials. It is assumed that, if a Federal employee engaged in partisan politics, he would thereby open himself, and the Federal Civil Service, to the return to the "spoil system." But let's look at the theory behind the so-called merit system of the U.S. Civil Service.

The "merit system" is a system whereby competence, ability and qualification alone, determines who shall be employed, and shall continue employment, in the Federal career civil service. This concept is in direct opposition to the "spoil system." Under this latter, the major consideration for appointment to, and tenure in, a Federal job, is the applicant's political partisanship.

Now, if an effectively administered merit system actually exists, and if safeguards exist to prevent the use of political influence in the appointment to, and tenure in, civil service jobs; there should be no possibility of a career Federal employee being "used" by a political party. In effect, the continued existence of the Hatch Act itself infers and strongly implies that our lawmakers do not believe that there is really an effectively administered merit system for the Federal service.

Let us take a look at the possible composition of the Federal career service. If a poll were taken of the partisan political preferences of Federal employees, the odds are vastly in favor of finding that the general distribution of party affiliation among these Federal workers would approximate the general distribution of party affiliation throughout the Nation. This is because, among 2 million people, all of whom are loyal citizens, you will find the same distribution of opinions and temperaments as you would find in any other random sampling of 2 million American citizens. There have been thoughts expressed that some administration could possibly "capture" the Federal career service and use it as a tight-knitted political organization to maintain itself in power. Yet, it would require a great deal more than what most political officials have to offer to change the political opinions of perhaps half of the 2 million Federal workers; from one political preference to another. Finally, the whole idea of having partisan political activity in the first place is to provide for the American citizen, an effective and meaningful way for him to express his feelings, and help influence the conditions under which he is governed. No other group of employees in a nation is denied the right to fully participate in partisan activity, so as to carry out their own ideas of what is politically needful for them. Federal employees are citizens too. Outside their jobs, they buy groceries and clothing, and are affected by inflation and taxes, just like any other American citizen. They too, have their rights and ideas about how they are being governed as citizens outside of their Federal jobs. As the law now stands, it prevents Federal workers from taking effective political action through the party organization of his choice. It prevents, in other words, his participation in bettering his general living conditions, through political partisanship and advocacy, because of a specific job which he has accepted on behalf of the common good of the rest of his fellow citizens. He has, in fact, been delegated to second-class citizenship even while he is using his skills and ability in the service of "first-class citizens". Our feelings, in conclusion, are that the Ashmore bill takes a timid step in the right direction; and, as such, it is to be commended and supported. But our strong convictions are, that until the Hatch Act's denial of full partisan activity to all Federal workers is repealed; there will be an inequity and an injustice done to all Federal employees.

Mr. Chairman and members of the committee, I deeply appreciate the opportunity of presenting this statement to you as the views of our organization in respect to H.R. 696, and the Hatch Act in general.

Thank you.

NATIONAL ASSOCIATION OF SOCIAL WORKERS,
SOUTH CENTRAL WISCONSIN CHAPTER,
Madison, Wis., April 7, 1959.

Re hearings on H.R. 696.

Hon. OMAR BURLESON,
Chairman, Committee on House Administration,
House Office Building, Washington, D.C.

DEAR REPRESENTATIVE BURLESON: I am writing on behalf of the South Central Chapter of the National Association of Social Workers with reference to the above-named bill.

Our chapter, consisting of 130 members from Madison, Wis. and the surrounding counties, is on record as favoring legislation which will:

1. Give Government employees freedom to engage in political activity while off the job.
2. Protect Government employees from political coercion.

Relating our stand specifically to bill H.R. 696, I would like to make the following comments:

Recommendation 4 of the committee

The chapter supports recommendation 4 of the Committee on House Administration which removes State, county, and municipal employees from the Hatch Act. We feel that such matters are the province of the respective branches of government by which the employee is employed. We do wonder why section 2 of the Hatch Act is apparently not amended in H.R. 696 as was recommended by the committee and what purpose this recommendation had with reference to the bill.

Recommendations 2 and 3

The chapter supports section 2 of the bill which provides for the elimination of the unanimous vote of the Commission to provide a penalty less than removal. The chapter also supports the elimination of the harsh 90-day minimum suspension for violation of section 9a (recommendation 3).

Recommendation 5

The chapter favors the extension of the rights of political activity as given in section 5 of the recommendations, but strongly urges that these privileges be given to all Federal employees. We firmly believe that political activity rules should apply uniformly to all Federal civil service personnel. We further seriously question section 16a (p. 2, line 16 and following) placing power within the Civil Service Commission to grant the right of political activity to certain Federal employees. Such political activities, we feel, should be granted by law rather than by the Civil Service Commission.

Sincerely yours,

JOHN W. MANNERING,
Chairman, Social Policy and Action Committee.

SUN PRAIRIE, WIS., *April 13, 1959.*

Re H.R. 696.

Congressman ROBERT T. ASHMORE,
Chairman, Subcommittee on Elections, Committee on House Administration,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN ASHMORE: I am writing to support your bill, H.R. 696, in principle and especially to lend my strong support to that part of the bill which deals with recommendation 4 of the committee report dated December 31, 1958. This recommendation removes State, county, and municipal employees from the Hatch Act. I believe the question of political activity of public employees deserves further study and mature, logical analysis. Such study is almost impossible to attain as long as Federal regulations are added to State, county, and municipal regulations. The employing unit of government should, in my opinion, control the political activity of its employees. Under the present arrangement, the law tends to become so beclouded with varying interpretations that no one is clearly able to define the law. This lack of clarity has meant that civil service employees often avoid political activity rather than risk a violation of the law.

Apparently section 2 of the Hatch Act is not amended as was recommended by the committee in recommendation 4. Could you tell me the reason for this?

I also support recommendations 2 and 3 of the report as absolutely essential. With reference to recommendation 5, I favor the extension of the rights of political activity as given in section 5 of the recommendations, but strongly urge that those privileges be given to all Federal employees. I firmly believe that political activity rules should apply uniformly to all Federal civil service personnel. I further seriously question 16a (p. 2, line 16 and following) placing power within the Civil Service Commission to grant the right of political activity to certain Federal employees. Such political activities, I feel, should be granted by law rather than by the Civil Service Commission.

Finally, may I commend you and the committee on the tremendous job that has been accomplished. Civil service workers everywhere owe all of you a tremendous vote of thanks for the task you have completed. We hope soon to hear of your fullest success.

Sincerely yours,

LLOYD H. SWANSON,
Consultant on Social Legislation.

MONTGOMERY COUNTY CIVIC FEDERATION,
Rockville, Md., May 12, 1959.

The Honorable ROBERT T. ASHMORE,
Chairman, Subcommittee on Elections,
Committee on House Administration,
House of Representatives, Washington, D.C.

DEAR MR. ASHMORE: I take pleasure in forwarding the enclosed resolution which was adopted by the Federation at our meeting of May 11, 1959. The references to "Committee recommendation—" are to the recommendation of your special committee as published in Report No. 2707 dated December 31, 1958.

You might be interested in a brief summary of the discussion which preceded adoption of this resolution.

On our point 1, referring to employees of the Alaskan Railway, there was some sentiment to the effect that this was a matter on which we should take no stand, since it does not affect those in this area. The argument of our Legislation and Legal Action Committee which proposed this resolution was that there is a basic principle involved here which we should support, and after full discussion this point was adopted by an essentially unanimous vote.

On our point 2, dealing with the penalties provided under the act, there was no opposition expressed to our committee's recommendation to support the proposed changes, and it was adopted unanimously.

Our point 3, referring to the removal of State and municipal employees from the coverage of the Hatch Act, was discussed in great detail. Many of our delegates were in favor of your committee's recommendations 2 and 3, but after lengthy discussion the view that at least some of these positions should be covered prevailed. It is quite possible that some modification of the present law would be approved by a majority of our delegates, but our committee did not propose any alternate amendment to the act.

Our point 4, bearing on the proposed amendment of section 16, was adopted by only a small majority, both in our committee and by the full federation. The desirability of permitting some political activity by Federal employees in a community such as ours is recognized by all our delegates, but many of them have sincere doubts that such liberalization can be effected without involving career employees in partisan politics to an extent which would be detrimental both to the individual employee and to the Federal service.

Our discussion of this last point emphasized the importance of our final recommendation that additional efforts be made to obtain the views of individual Federal employees, either individually or through their various civic organizations. For some reason this proposed amendment has not received much publicity, and many of our delegates felt that a much fuller discussion involving many more individuals than can be reached through any single civic organization would be desirable. It is my hope that our discussion of May 11 may promote a further consideration of these questions by some of our member organizations, and that they will submit their opinions before the final resolution of this bill by the Congress.

Sincerely yours,

ROBERT S. MARVIN, *President.*

RESOLUTION OF MONTGOMERY COUNTY CIVIC FEDERATION ADOPTED AT THE MEETING OF MAY 11, 1959

Whereas the Committee on House Administration of the House of Representatives of the U.S. Congress has made a study of the operation and enforcement of the Hatch Political Activities Act which study has been incorporated into Report No. 2707, House of Representatives, 85th Congress, dated December 31, 1958; and

Whereas, as a result of such report a bill, H.R. 696, has been introduced in the 86th Congress and is currently under consideration by the Committee on House Administration, House of Representatives: Now, therefore, be it

Resolved by the Montgomery County Civic Federation, That the federation's position with respect to said bill is as follows:

1. The federation favors uniform treatment of all Federal employees and therefore favors the first section of said bill (committee recommendation No. 1).

2. The federation favors section 2 of the bill (committee recommendations Nos. 2 and 3).

3. The federation opposes sections 3, 5, 6, and 7 of said bill (committee recommendation No. 4).

4. With respect to section 4 of the bill, the federation favors the principle of liberalization to permit participation in partisan political campaigns up to and including those involving the State legislature provided adequate safeguards are included to protect employees from political pressure and recommends that every effort be made to obtain the views of affected employees.

Approved For Release 2003/08/21 : CIA-RDP91-00965R000400190003-4

HATCH POLITICAL ACTIVITIES ACTS OF 1939 AND 1940, AS AMENDED*

[Public Law No. 252, 76th Cong., August 2, 1939, ch. 410, sec. 1–11, 53 Stat. 1157; as amended by Public Law No. 753, 76th Cong., July 19, 1940, ch. 640, sec. 1–6, 54 Stat. 767; (and further amended by Public Law No. 507, 77th Cong., March 27, 1942, ch. 199, title VII, sec. 701, 56 Stat. 181, which expired March 31, 1947, under provisions of Public Law No. 475, 79th Cong., June 29, 1946, ch. 526, 60 Stat. 345, Public Law No, 754, 77th Cong., October 24, 1942, ch. 620, 56 Stat. 986; and further amended by Public Law No. 277, 78th Cong., April 1, 1944, ch. 150, title V, sec. 501, 58 Stat. 148–149, as amended by Public Law No. 418, 78th Cong., August 21, 1944, ch. 404, 58 Stat. 727, which expired December 31, 1946, by Proclamation of the President No. 2714); Public Law No. 684, 79th Cong., August 8, 1946, ch. 904, 60 Stat. 937; also cited as United States Code, 1946, title 18, sec. 61–61x, certain provisions of sec. 61h expiring March 31, 1947, under provisions of Public Law No. 475, 77th Cong., June 29, 1946, ch. 526, 60 Stat. 345, and secs. 61v, 61w, 61x expiring December 31, 1946, by Proclamation of the President No. 2714, as amended by Public Law No. 772, 80th Cong., 2d sess., June 25, 1948; as amended by Public Law 732, 81st Congress; as amended by Public Law 330, 84th Congress]

For disposition of the various sections of the Hatch Political Activities Act by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, see table on page 28.

Sec. [1] [8] 594. INTIMIDATION AND COERCION OF VOTERS IN ELECTIONS OF CERTAIN OFFICERS.

(Title 18, U. S. C., sec. 594, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 1 and 8 of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, and formerly 18 U. S. C., secs. 61 and 61g.)

Elections of Federal officials, including Presidential electors

Intimidation or coercion of voters by any person, unlawful

SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and Possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Penalty

[8] Former secs. 1–8, 10–11, 13, 17, and 20 of the Hatch Act were repealed by Public Law 772, 80th Cong., 2d sess., June 25, 1948, which act revised, codified, and enacted into positive law title 18 of the United States Code, entitled "Crimes and Criminal Procedure." Secs. 10, 11, and 17 were omitted from the revised title 18 for reasons stated in the notes here under the particular section. Secs. 9, 12, 15–16, 18, and 21 of the Hatch Act have been transferred to title 5, Executive Department, United States Code, where they appear as secs. 118i to n, inclusive. Sec. 9A was repealed but reenacted in substance by Public Law 330, 84th Cong., 1st sess., August 9, 1955. Sec. 14 will appear as sec. 118k-3 in Supp. III (1956), U. S. Code.

Sec. 594 of title 18 quoted in the text above is based on former secs. 1 and 8 (former secs. 61 and 61g of title 18, U. S. C.) and consolidates these sections with changes in phraseology only. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

*Compiled by Samuel H. Still, legislative attorney, American Law Division, Legislative Reference Service, Library of Congress.

Sec. [2.][9] 595. ADMINISTRATIVE EMPLOYEES OF UNITED STATES OR ANY STATE, USE OF OFFICIAL AUTHORITY TO INFLUENCE ELECTIONS. (Title 18, U. S. C., sec. 595, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 2 and 8 and incorporating the provisions of secs. 14, 19, and 21 of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, as amended by the Act of July 19, 1940, ch. 640, 54 Stat. 767; and further amended by the Act of October 24, 1942, ch. 620, 56 Stat. 986 and formerly 18 U. S. C., secs. 61a, 61g, 61n, 61s, and 61u.)

Use of official authority by anyone in administrative position for purpose of interfering with election, unlawful

Includes District of Columbia employees

Includes employees of federally financed projects of States and municipalities

Penalty

Employees of educational and research institutions, etc.

SEC. 595. Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Resident Commissioner from any Territory or Possession, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic, or cultural organization.

[9] Sec. 595 quoted in the text above consolidates former secs. 2 and 8 and incorporates secs. 14, 19 and 21 of the Hatch Act. Words "or agency thereof" and words "or any department or agency thereof" were inserted to remove any possible ambiguity as to scope of the new section. Definitions of the terms "department" and "agency" are now found in sec. 6 of title 18, the term "agency" including any department, independent establishment, commission, administration, authority, board, or bureau of the United States or any corporation in which the United States has a proprietary interest unless the context shows that such term was intended to be used in a more limited sense.

Words "or by the District of Columbia or any agency or instrumentality thereof" were inserted upon authority of sec. 14 of the Hatch Act which provides that for the purposes of this section "persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States."

After "State" the words "Territory or possession of the United States" were inserted in two places upon authority of sec. 19 of the Hatch Act which defines "State," as used in this section, as "any State, Territory, or possession of the United States." The punishment provision now found in sec. 595 was derived from former sec. 8 of the Hatch Act, which by reference made the punishment applicable.

The second paragraph of sec. 595 incorporates the provisions of sec. 21 of the Hatch Act.

Changes were made in phrasecology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

Sec. [3] [10] 600. POLITICAL ACTIVITY; PROMISE OF EMPLOYMENT, COMPENSATION OR OTHER BENEFIT. (Title 18, U. S. C., sec. 600, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 3 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, and formerly 18 U. S. C., secs. 61b and 61g.)

Promise of benefit of any person as reward for support of or opposition to a candidate or political party unlawful

SEC. 600. Whoever, directly or indirectly, promises any employment, position, work, compensation, or other benefit, provided for or made possible in whole or in part by any Act of Congress, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Penalty

Sec. [4] [11] 601. SAME; DEPRIVATION OF EMPLOYMENT, COMPENSATION OR OTHER BENEFIT. (Title 18, U. S. C., sec. 601, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 4 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, and formerly 18 U. S. C., secs. 61c and 61g.)

Discrimination in work relief, etc., on account of race, creed, etc., unlawful

SEC. 601. Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Penalty

Sec. [5.] [12] 604. ASSESSMENTS; CONTRIBUTIONS; SOLICITATION FROM BENEFIT RECIPIENTS. (Title 18, U. S. C., sec. 604, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 5 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1148, and formerly 18 U. S. C., secs. 61d and 61g.)

Contributions, etc., for political purposes from persons receiving work relief or relief benefit unlawful

SEC. 604. Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit

[10] Sec. 600 quoted in the text above is based on and consolidates former secs. 3 and 8 of the Hatch Act. Minor changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[11] Sec. 601 quoted in the text above is based on and consolidates former secs. 4 and 8 of the Hatch Act. The words "except as required by law" were used as sufficient to cover the reference to the exception made to the provisions of subsec. (b), sec. 9, of the Hatch Act which expressly prescribes the circumstances under which a person may be lawfully deprived of his employment and compensation therefor. Changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[12] Sec. 604 quoted in the text above is based on and consolidates former secs. 5 and 8 of the Hatch Act. Minor changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

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provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Penalty

Sec. [6.] [13] 605. LIST OF BENEFIT RECIPIENTS; FURNISHING. (Title 18, U. S. C., sec. 605, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 6 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1148 and formerly U. S. C., secs. 61e and 61g.)

Disclosure of lists or names of persons on relief for political purposes unlawful

SEC. 605. Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee or campaign manager; and

Receipt of list unlawful

Whoever receives any such list or names for political purposes—

Penalty

Shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Sec. [7.] [14] 598. APPROPRIATIONS, OFFICIAL AUTHORITY; USE IN COERCING VOTERS. (Title 18, U. S. C., sec. 598, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 7 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1148 and formerly 18 U. S. C., secs. 61f and 61g.)

Relief, etc., funds, providing loans for public-works projects, use to coerce or restrain voters unlawful

SEC. 598. Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall

Penalty

be fined not more than $1,000 or imprisoned not more than one year, or both.

Sec. [8.] [15] 594, 595, 598, 600, 601, 604, 605, PENALTIES. (Sec. 8, of the Act of August 2, 1939, ch. 410,

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[13] Sec. 605 quoted in the text above is based on and consolidates former secs. 6 and 8 of the Hatch Act. Reference to persons aiding or assisting, contained in words "or to aid or assist in furnishing or disclosing" was omitted as unnecessary as such persons are made principals by sec. 2 of title 18: "(a) Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission is a principal. (b) Whoever causes an act to be done, which if directly performed by him would be an offense against the United States, is also a principal and punishable as such." Changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[14] Sec. 598 quoted in the text above is based on and consolidates former secs. 7 and 8 of the Hatch Act with changes of phraseology necessary to effect the consolidation. The punishment provision was derived from former sec. 8 of the Hatch Act which, by reference, was made applicable to this section. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[15] For disposition of sec. 8 see secs. [1] 594, [2] 595, [3] 600, [4] 601, [5] 604, [6] 605, and [7] 598.

Sec. 8 of the Hatch Act, providing a penalty for violation of secs. 1 through 7 was repealed by Public Law 772, 80th Cong., 2d sess., but was reenacted as a penalty provision in title 18, U. S. C., secs. 594, 595, 598, 600, 601, 604, and 605. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

53 Stat. 1148, formerly 18 U. S. C., sec. 61g was repealed by Public Law 772, 80th Cong., 2d sess., but was re-enacted and consolidated with former sections 1–7 of the Act of August 2, 1939, as title 18, U. S. C., secs. 595, 598, 600, 601, 604, and 605.)

Sec. 9.[16] EXECUTIVE EMPLOYEES; USE OF OFFICIAL AUTHORITY; POLITICAL ACTIVITY; PENALTIES. (August 2, 1939, ch. 410, sec. 9, 53 Stat. 1148, 1149; as amended July 19, 1940, ch. 640, sec. 2, 54 Stat. 767; and further amended March 27, 1942, ch. 199, title VII, sec. 701, 56 Stat. 176, 181; June 29, 1946, ch. 526, sec. 1, 60 Stat. 345; August 8, 1946, ch. 904, 60 Stat. 937; March 31, 1947, ch. 29, sec. 3, 61 Stat. 34; July 15, 1947, ch. 248, sec. 3, 61 Stat. 321, 322; August 25, 1950, ch. 784, sec. 1, 64 Stat. 475; 5 U. S. C. and Supp. II, 1955, 118i.)

Employees of executive departments, etc.

Interference in an election unlawful

Taking any active part in political management or campaigns forbidden

Exceptions

Right to vote, etc.

President and Vice President, and Executive Office personnel

Heads, etc., of departments

Policy-determining officers

SEC. 9. (a) It shall be unlawful for any person employed in the executive branch of the Federal Government, or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No officer or employee in the executive branch of the Federal Government, or any agency or department thereof, shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of this section the term "officer" or "employee" shall not be construed to include (1) the President and Vice President of the United States; (2) persons whose compensation is paid from the appropriation for the office of the President; (3) heads and assistant heads of executive departments; (4) officers who are appointed by the President, by and with the advice and consent of the Senate, and who determine policies to be pursued by the United States in its relations with foreign powers or in the Nation-wide administration of Federal laws. The provisions of the second sentence of this subsection shall not apply to the employees of

[16] Sec. 9 was enacted August 2, 1939, and formerly appeared as sec. 61h of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 9 appears as sec. 118i in title 5, U. S. Code, 1952 ed., and a revision of subsec. (a) appears in Supp. II (1955), U. S. Code.

Subsec. (a) amended July 19, 1940, to give all such persons the right "to express their opinions on all political subjects and candidates" (54 Stat. 767).

Subsec. (a) amended March 27, 1942, by the Second War Powers Act to except part-time officers and employees serving without compensation or nominal compensation during World War II (56 Stat. 181). The amendment of March 27, 1942, was temporary but was extended on June 29, 1946 (60 Stat. 345), until March 31, 1947. The amendment of March 27, 1942 was specifically excluded from any extension of time beyond March 31, 1947, by the First and Second Decontrol Acts of March 31 and July 15, 1947 (61 Stat. 34, 321, 322).

Subsec. (a) amended August 8, 1946, to exempt employees of the Alaska Railroad residing in municipalities on the lines of the railroad from the prohibition against taking active part in political management or campaigns, such exemption extending only in respect to activities involving the municipality in which they reside (60 Stat. 937).

Subsec. (b) amended August 25, 1950, to give the Civil Service Commission limited discretion in the imposition of penalties and removed the restriction against reemployment (64 Stat. 475).

Subsec. (c) added August 25, 1950, to require the Civil Service Commission to make annual reports to Congress on any action taken pursuant to sec. 9 (64 Stat. 475).

Employees of Alaska Railroad

The Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside.

Penalty for violation of sec. 9a.

(b) Any person violating the provisions of this section shall be removed immediately from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such person: *Provided, however*, That the United States Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a lesser penalty shall be imposed by direction of the Commission: *Provided further*, That in no case shall the penalty be less than ninety days' suspension without pay: *And provided further*, That in the case of any person who has heretofore been removed from the service under the provisions of this section, the Commission shall upon request of said person reopen and reconsider the record in such case. If it shall find by a unanimous vote that the acts committed were such as to warrant a penalty of less than removal it shall issue an order revoking the restriction against reemployment in the position from which removed, or in any other position for which he may be qualified, but no such revocation shall become effective until at least ninety days have elapsed following the date of the removal of such person from office.

Reports of action taken under sec. 9a.

(c) At the end of each fiscal year the Commission shall report to the President for transmittal to the Congress the names, addresses, and nature of employment of all persons with respect to whom action has been taken by the Commission under the terms of this section, with a statement of the facts upon which action was taken, and the penalty imposed.

Sec. [9A.][17] **FEDERAL EMPLOYEES; MEMBERSHIP IN POLITICAL PARTY OR ORGANIZATION ADVOCATING OVERTHROW OF UNITED STATES GOVERNMENT; PROHIBITION; PENALTIES.** (August 2, 1939, ch. 410, sec. 9A, 53 Stat. 1147, 1148; 5 U. S. C. 1952 ed. 118j; repealed August 9, 1955, by clause 2 of sec. 4 of Public Law 330, 84th Cong., 1st sess., ch. 690 but reenacted in substance by clause (2) of sec. 1 of Public Law 330 [H. Rept. No. 1152 and S. Rept. No. 1256 on H. R. 6590, 84th Cong., 1st Sess.].)

(For text of Public Law 330, 84th Cong., 1st sess., superseding sec. 9A of the Hatch Act *see* p. 32.)

Sec. [10.][18] **EFFECT ON EXISTING LAW.** (August 2, 1939, ch. 410, sec. 10, 53 Stat. 1147, 1149; as amended 54 Stat. 767; formerly 18 U. S. C., sec. 61j.)

[17] Formerly sec. 611 of title 18, U. S. C., 1940 ed.

[18] Former sec. 10 of the Hatch Act was repealed by Public Law 772, 80th Cong., 2d sess. The section was omitted as unnecessary because in the enactment of the revision of title 18 all old sections included in the new title are on an equal basis and speak as of the date of the enactment under authority of *United States* v. *Bowen* (100 U. S. 508), construing the Revised Statutes. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

Sec. [11.] [19] SEPARABILITY CLAUSE. (53 Stat. 1149; formerly 18 U. S. C., sec. 61k.)

Sec. 12.[20] EMPLOYEES OF STATE OR LOCAL AGENCIES FINANCED BY LOANS OR GRANTS FROM UNITED STATES—INFLUENCING ELECTIONS; OFFICER OR EMPLOYEE DEFINED. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767; 5 U. S. C., sec. 118k.)

Interference with an election, etc., by certain State employees forbidden

SEC. 12. (a) No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, or (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No such officer or employee shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of the second sentence of this subsection, the term "officer or employee" shall not be construed to include (1) the Governor or the Lieutenant Governor of any State or any person who is authorized by law to act as Governor, or the mayor of any city; (2) duly elected heads of executive departments of any State or municipality who are not classified under a State or municipal merit or civil-service system; (3) officers holding elective offices.

Use of official authority, influence

Coercion, etc., to contribute part of salary

Active political participation

Right to vote, etc.

Officer or employee construed; restriction

Report of violations to U. S. Civil Service Commission

(b) If any Federal agency charged with the duty of making any loan or grant of funds of the United States for use in any activity by any officer or employee to whom the provisions of subsection (a) are applicable has reason to believe that any such officer or employee has violated the provisions of such subsection, it shall make a report with respect thereto to the United States Civil Service Commission (hereinafter referred to as the "Commission"). Upon the receipt of any such report, or upon the receipt of any other information which seems to the Commission to warrant an investigation, the Commission shall fix a time and place for a hearing, and shall by registered mail send to the officer or employee charged with the violation and to the State or local agency employing such officer or employee a notice setting forth a summary of the alleged violation and the time and place

Hearings by Commission; notification

[19] Former sec. 11 of the Hatch Act was repealed by Public Law 772, 80th Cong., 2d sess. The section was omitted as unnecessary because sec. 18 of the Public Law 772 provides for separability of provisions with respect to the entire new title 18. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[20] Formerly sec. 611 of title 18, U. S. C., 1940 ed.

of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer or employee or the State or local agency, or both, may appear with counsel and be heard. After such hearing, the Commission shall determine whether any violation of such subsection has occurred and whether such violation, if any, warrants the removal of the officer or employee by whom it was committed from his office or employment, and shall by registered mail notify such officer or employee and the appropriate State or local agency of such determination. If in any case the Commission finds that such officer or employee has not been removed from his office or employment within thirty days after notice of a determination by the Commission that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any State or local agency in such State, the Commission shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants to the State or local agency to which such notification was given an amount equal to two years' compensation at the rate such officer or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency which receives loans or grants from any Federal agency, such order shall require the withholding of such amount from such other State or local agency: *Provided*, That in no event shall the Commission require any amount to be withheld from any loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of such amount would jeopardize the payment of the principal or interest on such bonds or notes. Notice of any such order shall be sent by registered mail to the State or local agency from which such amount is ordered to be withheld. The Federal agency to which such order is certified shall, after such order becomes final, withhold such amount in accordance with the terms of such order. Except as provided in subsection (c), any determination or order of the Commission shall become final upon the expiration of thirty days after the mailing of notice of such determination or order.

Findings and notification of employee and State

Employee not removed from office within stated period; withholding of Federal funds

Amount to be withheld

Exception

Proviso
When funds not to be withheld

Notice to State, etc., agency

(c) Any party aggrieved by any determination or order of the Commission under subsection (b) may, within thirty days after the mailing of notice of such determination or order, institute proceedings for the review thereof by filing a written petition in the district court of the United States for the district in which such officer or employee resides; but the commencement of such proceedings shall not operate as a stay of such determination or order unless (1) it is specifically so ordered by the court, and (2) such officer or employee is suspended from his office or employment during the pendency of such proceedings. A copy of such petition shall forthwith be

Petition for court review

Stay of determination or order

served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the determination or the order complained of was made. The review by the court shall be on the record entire, including all of the evidence taken on the hearing, and shall extend to questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may direct such additional evidence to be taken before the Commission in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings of fact or its determination or order by reason of the additional evidence so taken and shall file with the court such modified findings, determination, or order, and any such modified findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commission's determination or order, or its modified determination or order, if the court determines that the same is in accordance with law. If the court determines that any such determination or order, or modified determination or order, is not in accordance with law, the court shall remand the proceedings to the Commission with directions either to make such determination or order as the court shall determine to be in accordance with law or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court shall be final, subject to review by the appropriate circuit court of appeals as in other cases, and the judgment and decree of such circuit court of appeals shall be final, subject to review by the Supreme Court of the United States on certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, secs. 346 and 347). If any provision of this subsection is held to be invalid as applied to any party with respect to any determination or order of the Commission, such determination or order shall thereupon become final and effective as to such party in the same manner as if such provision had not been enacted.

Transcript of record

Review upon entire record

Additional evidence

Modification of Commission's order

Affirmation by court

Remanding of proceeding to Commission

Finality of judgment and decree; review

When designated provision held invalid, effect

(d) The Commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The Civil Service Commission shall have power to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter pending, as a result of this Act, before the Commission. Any member of the Commission may sign subpenas, and members of the Commission may administer oaths and affirmations, examine

Rules and regulations

Attendance of witnesses, etc.

Oaths, examination of witnesses, etc.

witnesses, and receive evidence. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpena, the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The Commission may order testimony to be taken by deposition in any proceeding or investigation, which as a result of this Act, is pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as hereinbefore provided. No person shall be excused from attending and testifying or from producing documentary evidence or in obedience to a subpena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise before the Commission in obedience to a subpena issued by it: *Provided,* That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Enforcement of subpenas

Depositions

Incriminating evidence

Proviso Perjury

(e) The provisions of the first two sentences of subsection (a) of this section shall not apply to any officer or employee who exercises no functions in connection with any activity of a State or local agency which is financed in whole or in part by loans or grants made by the United States or by any Federal agency.

Provisions inapplicable

(f) For the purposes of this section—

(1) The term "State or local agency" means the executive branch of any State, or of any municipality or other political subdivision of such State, or any agency or department thereof.

State or local agency defined

(2) The term "Federal agency" includes any executive department, independent establishment, or other agency of the United States (except a member bank of the Federal Reserve System).

Federal agency defined

Sec. [13.] 608.[21] FINANCIAL AID TO CANDIDATES—CONTRIBUTIONS. (Title 18, U. S. C., sec. 608, as enacted by Public Law 772, 80th Cong., 2d sess., superseding sec. 13, as added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 770, formerly title 18, U. S. C., sec. 61m.)

Contribution to candidate or committee, etc., in excess of $5,000 unlawful

SEC. 608. (a) Whoever, directly or indirectly, makes contributions in an aggregate amount in excess of $5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, including the offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

Penalty

Contributions to or by State or local committees, etc., excepted

This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organizations in the District of Columbia or in any Territory or Possession of the United States.

Certain purchases of goods, advertising, etc., unlawful

(b) Whoever purchases or buys any goods, commodities, advertising, or articles of any kind or description, the proceeds of which, or any portion thereof, directly or indirectly inures to the benefit of or for any candidate for an elective Federal office including the offices of President of the United States, and Presidential and Vice Presidential electors or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

Penalty

Noninterference with candidate's business, etc.

This subsection shall not interfere with the usual and known business, trade, or profession of any candidate.

[21] Sec. 608 quoted above in the text is based on former sec. 13 of the Hatch Act. References to "pernicious political activity" were omitted in the revision of title 18, U. S. C., as enacted by Public Law 772, 80th Cong., 2d sess.

The punishment provision of this section, which formerly appeared as first sentence of subsec. (d) of former sec. 13 of the Hatch Act, is set out at the end of the first paragraphs of subsecs. (a) and (b), respectively. Words "or both" were added to the punishment provisions in two places, to conform to the almost universal formula of this title.

To improve style the last sentence of subsec. (a) was made a paragraph and the words "or to similar committees or organizations in the District of Columbia or in any Territory or possession of the United States" were added at the end of it. These words were added upon authority of definition of "State" in subsection (d) of former sec. 13, which described a State as including a Territory or possession, and for the further reason that to omit the District of Columbia would have the effect of prohibiting contributions of more than $5,000 by the District committee of each major party to their respective national committees but would permit such contributions by similar committees in the Canal Zone, Virgin Islands, or Puerto Rico.

Subsec. (b) of former sec. 13 of the Hatch Act, contained definitions of "person" and "contribution." In this revised section, definition of "person" was omitted as unnecessary in view of substitution of "Whoever" and definition of "whoever" in sec. 1 of title 1, U. S. C. 1940 ed., General Provisions. Inasmuch as the definition of "contribution" in subsec. (b) of former sec. 13 of the Hatch Act was substantially the same as that contained in subsec. (d) of sec. 302 of the Corrupt Practices Act (sec. 241 of title 2, U. S. C., 1940 ed.), such definition is not repeated in this section, but the definition as contained in sec. 591 of title 18 is made applicable by subsec. (d) of this revised section.

Subsec. (e) of former sec. 13, was omitted as unnecessary in the revision. Changes were made in phraseology.

Violations by partnerships, etc.

(c) In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and wilfully participate in such violation, shall be punished as herein provided.

Contribution defined

(d) The term "contribution," as used in this section, shall have the same meaning prescribed by section 591 of this title.

CROSS REFERENCE

For definition of term "Contribution" see, supra, section 591 of title 18, United States Code, following section 302 of the Corrupt Practices Act.

Sec. 14.[22] DISTRICT OF COLUMBIA EMPLOYEES DEEMED EMPLOYED IN EXECUTIVE BRANCH; EXCEPTION. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 5 U. S. C., Supp. III, sec. 118 k–3.)

District of Columbia employees covered by Act

Exception: District Commissioners and Recorder of Deeds

SEC. 14. For the purposes of this Act, persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States, except that for the purposes of the second sentence of section 9 (a) the Commissioners and the Recorder of Deeds of the District of Columbia shall not be deemed to be officers or employees.

Sec. 15.[23] ACTIVITIES PROHIBITED ON PART OF CIVIL-SERVICE EMPLOYEES AS PROHIBITED ON PART OF OTHER GOVERNMENT AND STATE EMPLOYEES. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 5 U. S. C., sec. 118l.)

Taking active part in political management, etc., deemed to include activities prohibited by Commission

SEC. 15. The provisions of this Act which prohibit persons to whom such provisions apply from taking any active part in political management or in political campaigns shall be deemed to prohibit the same activities on the part of such persons as the United States Civil Service Commission has heretofore determined are at the time this section takes effect prohibited on the part of employees in the classified civil service of the United States by the provisions of the civil-service rules prohibiting such employees from taking any active part in political management or in political campaigns.

[22] Sec. 14 of the Hatch Act providing that District of Columbia employees be included within the provisions of the act was added July 19, 1940, and formerly appeared as sec. 61n of title 18, U. S. Code in both 1940 and 1946 eds. Sec. 14 was excluded from title 18 and left dangling without recommendation for transfer to title 5 upon the revision and codification of that title by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 14 was omitted from the 1952 ed. of the U. S. Code and presently appears only at 54 Stat. 771 but is scheduled to appear as sec. 118k–3 of Supp. III (1956) U. S. Code.
In the revision of title 18, U. S. Code on June 25, 1948, upon authority of sec. 14 the words "or by the District of Columbia or any agency or instrumentality thereof" were inserted in sec. 595 (new) of title 18. (See note to sec. [2] 595.)

[23] Section 15 was added July 19, 1940, and formerly appeared as sec. 61o of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 15 appears as sec. 118l in title 5, U. S. Code, 1952 ed.

Sec. 16.[24] POLITICAL CAMPAIGNS IN LOCALITIES WHERE MAJORITY OF VOTERS ARE GOVERNMENT EMPLOYEES. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 5 U. S. C., sec. 118m.)

Certain residents of municipalities in immediate vicinity of D. C., etc.
Political activities, when permitted

SEC. 16. Whenever the United States Civil Service Commission determines that, by reason of special or unusual circumstances which exist in any municipality or other political subdivision, in the immediate vicinity of the National Capital in the States of Maryland and Virginia or in municipalities the majority of whose voters are employed by the Government of the United States, it is in the domestic interest of persons to whom the provisions of this Act are applicable, and who reside in such municipality or political subdivision, to permit such persons to take an active part in political management or in political campaigns involving such municipality or political subdivision, the Commission is authorized to promulgate regulations permitting such persons to take an active part in such political management and political campaigns to the extent the Commission deems to be in the domestic interest of such persons.

Regulation by Commission

Sec. [17.][25] STATE EMPLOYEES RUNNING FOR PUBLIC OFFICE; RESIGNATION UPON ELECTION. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 18 U. S. C., sec. 61q.)

Sec. 18.[26] ELECTIONS NOT SPECIFICALLY IDENTIFIED WITH NATIONAL OR STATE ISSUES OR POLITICAL PARTIES. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 772; 5 U. S. C. 118n.)

Political activities in connection with designated elections, etc., not prohibited

SEC. 18. Nothing in the second sentence of section 9 (a) or in the second sentence of section 12 (a) of this Act shall be construed to prevent or prohibit any person subject to the provisions of this Act from engaging in any political activity (1) in connection with any election and the preceding campaign if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) in connection with any question which is not specifically identified with any National or State political party. For the purposes

[24] Sec. 16 was added July 19, 1940, and formerly appeared as sec. 61p of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 16 appears as sec. 118m in title 5, U. S. Code, 1952 ed.

[25] Former sec. 17 of the Hatch Act was repealed by Public Law 772, 80th Cong., 2d sess. The section was omitted in the enactment of the revision of title 18, being temporary and relating only to candidates who had been nominated prior to its enactment July 19, 1940, by ch. 640, 54 Stat. 771. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190).

[26] Sec. 18 was added July 19, 1940, and formerly appeared as sec. 61r of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 18 appears as sec. 118n in title 5 U. S. Code 1952 ed.

Referendums, etc.

of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, shall not be deemed to be specifically identified with any National or State political party.

Sec. 19.[27] DEFINITION OF TERM "STATE". (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 771; 5 U. S. C. 118k–2.)

State defined to include Territories and possessions

SEC. 19. As used in this Act (sections 118i–118n of title 5) the term "State" means any State, Territory, or possession of the United States.

Sec. [20.][28] 609. MAXIMUM CONTRIBUTIONS TO AND EXPENDITURES BY POLITICAL COMMITTEES; PENALTIES. (Title 18 U. S. C., sec. 609, as enacted by Public Law No. 772, 80th Cong., 2d sess., superseding sec. 20, ch. 410, 53 Stat. 1147–1149, as added July 19, 1940, ch. 640, sec. 6, 54 Stat. 767, 772, and 18 U. S. C., sec. 61t.)

Receipts and expenditures of political committees in excess of $3,000,000 forbidden

SEC. 609. No political committee shall receive contributions aggregating more than $3,000,000, or make expenditures, aggregating more than $3,000,000, during any calendar year.

For the purposes of this section, any contributions received and any expenditures made on behalf of any political committee with the knowledge and consent of the chairman or treasurer of such committee shall be deemed to be received or made by such committee.

Violations

Any violation of this section by any political committee shall be deemed also to be a violation by the chairman and the treasurer of such committee and by any other

Penalty

person responsible for such violation and shall be punishable by a fine of not more than $1,000 or imprisonment of not more than one year, or both; and, if the violation was willful, by a fine of not more than $10,000 or imprisonment of not more than two years, or both.

CROSS REFERENCE

For definitions of terms applicable to this section see, supra, section 591 of title 18, United States Code, following section 302 of the Corrupt Practices Act.

For duties as to contributions; accounts and receipts; statements; limitations upon expenditures see, supra, sections 303–309 of the Corrupt Practices Act.

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[27] Sec. 19 of the Hatch Act defining the term "State" was added July 19, 1940, and formerly appeared as sec. 61s of title 18, U. S. Code in both 1940 and 1946 eds. Sec. 19 was excluded from title 18 upon revision and codification of that title by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 19 appears as sec. 118k–2 of title 5, U. S. Code, 1952 ed.

In the revision of title 18, U. S. Code on June 25, 1948, upon authority of sec. 19 the words "Territory or Possession of the United States" were inserted in two places in sec. 595 (new) of title 18. (See note to sec. [2] 595.)

[28] Sec. 609 is based on former sec. 20 of the Hatch Act and sec. 314 of the Corrupt Practices Act, the punishment provisions of sec. 314 being incorporated at the end of the section upon authority of reference to them contained in words "Terms used in this section (sec. 20) shall have the meaning assigned to them in sec. 302 of the Federal Corrupt Practices Act, 1925, and the penalties provided in such Act shall apply to violations of this section." Words "or both" were added to the second punishment provision to conform to the almost universal formula of title 18. Changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

Sec. 21.[29] ACTIVITIES OF EMPLOYEES OF EDUCATIONAL AND RESEARCH INSTITUTIONS, ETC. (Added October 24, 1942, ch. 620, 56 Stat. 986; 5 U. S. C., sec. 118k–1.)

SEC. 21. Nothing in sections 9 (a) or 9 (b), or 12 of this Act shall be deemed to prohibit or to make unlawful the doing of any act, by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any State or political subdivision thereof, or by the District of Columbia or by any Territory or Territorial possession of the United States; or by any recognized religious, philanthropic, or cultural organization.

Sec. [22.][30] POLITICAL ACTIVITY AFFECTING MEMBERS OF ARMED FORCES; EXCEPTIONS. (Added April 1, 1944, ch. 150, Title V, sec. 501, 58 Stat. 136, 148; amended and made temporary August 21, 1944, ch. 404, secs. 1–2, 53 Stat. 727–728; formerly 18 U. S. C. 61v.)

Sec. [23.][30] LIMITATION ON CENSORSHIP OF POLITICAL LITERATURE, ARGUMENTS, OR OTHER MATTER ADDRESSED TO MEMBERS OF ARMED FORCES. (Added April 1, 1944, ch. 150, Title V, sec. 501, 58 Stat. 136, 149; made temporary August 21, 1944, ch. 404, sec. 2, 53 Stat. 727, 728; formerly 18 U. S. C. 61w.)

Sec. [24.][31] PENALTY FOR VIOLATION OF SECTIONS 22 OR 23. (Added April 1, 1944, ch. 150, Title V, sec. 501, 58 Stat. 136, 149; formerly 18 U. S. C. 61x.)

Sec. [25.][32] EXPIRATION DATE OF SECTIONS 22 AND 23. (Added August 21, 1944, ch. 404, sec. 2, 53 Stat. 727, 728.)

[29] Sec. 21 was added October 24, 1942, and formerly appeared as sec. 61u of title 18, U. S. Code, 1940 ed., Supp. V (1941–1946), but was excluded from title 18 and left dangling without recommendation for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 21 appears as sec. 118k–1 in title 5 U. S. Code 1952 ed.
In the revision of title 18 on June 25, 1948, upon authority of sec. 21 the second paragraph of sec. 595 (new) was inserted. (See note to sec. [2] 595.)

[30] Secs. 22 and 23 were added as part of section 501, Title V, the Federal Soldiers Voting Law of April 1, 1944. Sec. 22 appeared as sec. 61v of title 18, U. S. Code, 1940 ed., Supp. V (1941–1946). Secs. 22 and 23 were made temporary on August 21, 1944, by sec. 25 (53 Stat. 728) and expired 6 months after termination of hostilities in World War II by Presidential Proclamation No. 2714, December 31, 1946.

[31] Sec. 24 was added along with secs. 22 and 23 and contained the penalty provisions for violation of those sections. Sec. 24 expired with secs. 22 and 23.

[32] Sec. 25 was added August 21, 1944, fixing the termination date for secs. 22 and 23 upon the expiration of 6 months after end of hostilities as proclaimed. Sec. 25 expired with secs. 22–24.

LEGISLATIVE HISTORY OF THE HATCH ACT--INTENT OF THE PRESIDENT AND THE CONGRESS AT THE TIME OF ENACTMENT

At the time Congress was considering the Emergency Relief Appropriation Act of 1936 (H.R. 12624), calling for $1,425 million for relief, there was considerable criticism that politics was being injected into the program. On February 21, 1936, just prior to consideration of the appropriations by Congress, Harry Hopkins, Administrator of the Works Progress Administration, to alleviate this criticism, issued a directive to all State Works Progress Administrators that "persons who are candidates for or hold elective offices shall not be employed on administrative staffs of the Works Progress Administration." The ruling applied to nonrelief supervisory personnel on works projects as well as to State, district, and field administrative staffs. General Letter No. 2, February 21, 1936, published in Congressional Record, vol. 80, p. 7566. To give added impetus to this policy of the administration Senator Bilbo, on June 1, 1936, offered an amendment to the Emergency Relief Appropriations bill (H.R. 12624) incorporating in substance the order of Hopkins. The Bilbo amendment was adopted (Congressional Record, vol. 80, pp. 7566, 8508; H. Rept. No. 3013 (Conference), p. 5, title II; Public Law No. 730, June 22, 1936, 49 Stat. 1597, 1610). The same prohibition was written into subsequent Emergency Relief Appropriation Acts. (H.J. Res. 361) June 29, 1937, (sec. 6, title I, Pub. Res. No. 47, 50 Stat. 352. 355 and (H.J. Res. 679) June 21, 1938, sec. 14, title I, Pub. Res. No. 122, 52 Stat. 809). An amendment offered by Senator Vandenberg and adopted at the same time as was the Bilbo amendment prohibited discrimination in giving relief or employment or approval of applications for projects on account of political affiliations. This amendment also appeared in subsequent appropriations acts.

In the meantime, public concern over misapplication of relief funds seem to grow and the Senate on June 10, 1937, created a Special Committee To Investigate Unemployment and Relief. (S. Res. 36, 75th Cong.; Congressional Record vol. 81, pp. 73, 5515, introduced by Messrs. Hatch and Murray.) This committee composed of Senators Byrnes, chairman, Clark, Frazier, Hatch, Murray, Davis and Lodge submitted a preliminary report on April 20, 1938.

The committee did not report on political activities as some expected. The committee had adopted a policy of not inviting to its hearings witnesses seeking to be heard for the purpose of making charges of political influence against the administration of the Works Progress Administration. To have adopted any other policy, according to the chairman, would have required giving the administrative officials charged an opportunity to be heard. (See S. Rept. No. 1625, pt. 2, p. 4).

When the Emergency Relief Appropriation bill of 1938 (H.J. Res 679) was before the Senate, Senator Hatch offered an amendment designed to prevent any person employed by the Federal Government in an administrative capacity and paid from relief funds from using "his official authority or influence for the purpose of interfering with or influencing a convention, a primary, or other election, or affecting the results thereof." Under the proposal however, "any such person shall retain the right to vote as he pleases and to express his opinions on all political subjects, but shall take no active part in political management or in political campaigns." The penalty was removal from position or office. This amendment sought to apply to those persons in administrative positions of the Federal Works Progress Administration the same restrictions then imposed on civil service employees by Civil Service rule I. The amendment was defeated in the Senate on June 2, 1938. (See Congressional Record, vol. 83, pp. 5569 (original amendment), 7999–8000 (colloquy between Barkley, Byrnes and Hatch); vol. 84, p. 11154 (this amendment same as sec. 9 of later act).)

The Relief Appropriations bill (H.J. Res. 679) thus passed the Senate on June 3, 1938, without the Hatch amendment. However, 5 days later, June 7, 1938, Senator Tydings along with several other Senators asked that a special committee be created to investigate the alleged use of relief and work-relief funds for political purposes. This resolution (S. Res. 290) was agreed to June 16, 1938, but was so amended as to direct that the investigation be made by the Special Senatorial Campaign Expenditures Committee which had been created (S. Res. 283) on May 27, 1938. This special committee was composed of Senators Sheppard, chairman, O'Mahoney, Brown, Norris, Austin and Walsh of Massachusetts (Congressional Record vol. 83, pp. 7632, 7803, 8152, 8278, 9133).

During the election campaigns of 1938, there was much publicity about use of Federal relief funds for political purposes. On January 3, 1939, the Sheppard Committee on Campaign Expenditures and Use of Governmental Funds—of which Mr. Hatch was a member—reported (S. Rept. No. 1, 76th Cong.) that sufficient misuse of Federal relief funds prompted them to make the following recommendations:

I. The committee in the course of its work has been compelled to give much of its attention to charges of undue political activity in connection with the administration and conduct of the Works Progress Administration in certain States. While many of these charges, after investigation, were not sustained, the committee nevertheless finds that there has been in several States, and in many forms, unjustifiable political activity in connection with the work of the Works Progress Administration in such States. The committee believes that funds appropriated by the Congress for the relief of those in need and distress have been in many instances diverted from these high purposes to political ends. The committee condemns this conduct and recommends to the Senate that legislation be prepared to make impossible, so far as legislation can do so, further offenses of this character.

II. The committee recommends legislation prohibiting contributions for any political purpose whatsoever by any person who is the beneficiary of Federal relief funds or who is engaged in the administration of relief laws of the Federal Government. The committee also recommends legislation prohibiting any person engaged in the administration of Federal relief laws from using his official authority or influence to coerce the political action of any person or body.

III. The committee recommends that section 19, title 1, of the present Work Relief Act, making it a misdemeanor for any person knowingly, by means of fraud, force, threat, intimidation, boycott, or discrimination on account of race, religion, political affiliation, or membership in a labor organization, to deprive any person of any of the benefits to which he may be entitled under the Work Relief Act, be so amended as to make such violation a felony instead of a misdemanor.

IV. The committee recommends that all Federal relief acts should be so amended as to provide that any person who knowingly makes, furnishes, or discloses any list of persons receiving benefits under such acts or of persons engaged in the administration thereof, for delivery to a political candidate, committee, campaign manager, or employee thereof shall be deemed guilty of a misdemeanor.

V. The committee recommends that section 208, title 18, of the United States Code be so amended as to prohibit not only the soliciting and receiving of political contributions by officials, employees, and persons now named in that section, but also by anyone acting in their behalf.

VI. The committee recommends that section 211, title 18, of the United States Code be so amended as to prohibit political contributions not only by Federal employees to any Senator or Member of, or Delegate or Resident Commissioner to Congress, but also to any candidate for such offices, or to any person or committee acting with the knowledge and consent and specially in behalf of such Senator or Member of, or Delegate to Congress or Resident Commissioner therein, or of any candidate for such office.

VII. The committee recommends that there should be a limitation upon contributions which individuals may make in behalf of a candidate seeking election to Federal office.

VIII. The committee recommends that section 209, title 18, of the United States Code, relating to solicitation for political contributions in any room or building occupied in the performance of official duties by any person in the employ of the Federal Government be so amended as to include solicitation by letter and telephone, as well as in person.

IX. The committee recommends the adoption by the Senate of a rule requiring all candidates for the Senate to file with the Secretary of the Senate, in response to appropriate questionnaires, a full and complete statement of receipts and expenditures incurred by or in behalf of such candidates in their campaigns for nomination as well as for election.

X. The committee recommends that section 313 of the Federal Corrupt Practices Act be so amended as to prohibit any contribution by any national bank, any corporation organized by authority of any law of Congress, or by any corporation engaged in interstate or foreign commerce of the United States, in connection with any primary or general election.

XI. The committee recommends that subsection (c), section 309, of the Federal Corrupt Practices Act be so amended as to require candidates to report all their campaign expenditures, including those exempted in determining the amount they are allowed to spend under the law.

XII. The committee recommends that section 310 of the Federal Corrupt Practices Act be so amended as to prohibit candidates from promising work, employment, money, or other benefits in connection with public relief.

XIII. The committee recommends the enactment of a law regulating more strictly the use of the franking privilege.

XIV. The committee recommends that the Senate take under consideration the question whether or not a contribution for political purposes made either voluntarily or involuntarily by persons in the employ of the Federal Government should be permitted.

XV. The committee recommends that the Senate take under consideration the question of legislation in connection with coalition and group tickets.

XVI. The committee recommends that the Senate adopt a rule authorizing the Vice President to appoint, at the beginning of each Congress, for the duration of said Congress, a Senate committee on investigation of senatorial campaign expenditures, campaign activities, and use of governmental funds for the purpose of influencing primaries and general elections.

On the next day after the Sheppard committee reported, Senator Hatch introduced two bills (S. 212 and 213) which he later incorporated into a single bill, S. 1871, which he, along with Senators Sheppard and Austin, introduced on March 20, 1939. This bill (S. 1871) subsequently was enacted and became known as the Hatch Act.

Just 11 days after the Sheppard committee's report, the Byrnes Committee to Investigate Unemployment reported (S. Rept. 2, 76th Cong.), giving its approval to the recommendations of the Sheppard committee and further recommending that all future appropriations for relief contain provisions to secure absolute independence of political action for persons receiving benefits. This recommendation was later incorporated in the Hatch bill (S. 1871) and became section 3 of the act but was not limited to relief benefits or appropriations but is applicable to benefits made possible by any act of Congress. The Byrnes committee also recommended what, in substance, became section 4 of the Hatch Act. The Byrnes committee also recommended enactment of the amendment originally proposed by Senator Hatch to the Relief Appropriation Act of 1938 (H.J. Res. 679) but which had been defeated in the Senate on June 2, 1938. (See S. Rept. 2, pt. 1, pp. 7–8, 76th Cong.)

The amendments recommended by the Byrnes committee (of which Mr. Hatch was a member) were incorporated in deficiency relief appropriations bill (H.J. Res. 83) reported from the Senate Appropriations Committee on January 21, 1939. The Appropriations Committee stated that the legislation was recommended by the committee "in consonance with recommendations of the President of the United States in his message of January 5, 1939, the Special Committee to Investigate Senatorial Campaign Expenditures and the use of Governmental Funds in 1938, and the Special Committee to Investigate Unemployment and Relief." (S. Rept. 4, pp. 3–4, 76th Cong.)

When the committee amendments were up for adoption both Senators Hatch and Barkley sought to perfect the amendments by having the same law apply to any other appropriations—not merely to the Works Progress Administration. The Barkley amendments were adopted on January 28, 1939. (Congressional Record vol. 84, pp. 904–905.)

In his message to Congress, January 5, 1939, on the needs of the Works Progress Administration, President Roosevelt advised Congress that by Executive Order No. 7916 he intended to bring administrative employees of Works Progress Administration under civil service. This, however, Congress prohibited. Roosevelt was of the opinion that if this group was brought under civil service they would become subject to the general prohibitions as to political activities of civil service rule I which already applied to other Federal employees covered by civil service. (The Public Papers and Addresses of Franklin D. Roosevelt, vol. 8, item 5, p. 58 and 59n.)

On April 13, 1939, the Senate passed the Hatch bill (S. 1871). (For comment see New York Times, April 14, 1939, p. 17, col. 3.)

On April 27, 1939, President Roosevelt sent a message to Congress on relief needs in which he said he approved of congressional attempt to halt political activity connected with the relief program but thought this could be best

achieved by placing administrative employees of the WPA under civil service, a recommendation that Congress rejected in January. The message said:

"The Congress has recently made provisions against improper political activity on the part of persons connected with the work relief program—provisions affecting not only Federal employees but all persons who may be in a position to bring improper pressure to bear.

"Such legislation was recommended in my message of aJnuary 5, 1939, and has my hearty endorsement. However, insofar as the administrative employees of the Works Progress Administration and of the other agencies connected with the work relief program are concerned, I believe that the political provisions just mentioned would be more constructive and their enforcement would be simpler if the Congress would place such employees within the classified civil service." (The Public Papers and Addresses of Franklin D. Roosevelt, vol. 8, item 71, p. 289. (For comment see New York Times, April 28, 1939, p. 12, col. 2.)

At his White House press conference on July 28, 1939, President Roosevelt described himself as in favor of the objectives of the Hatch bill, but proceeded to raise such questions as to its operation and to raise still another question as to whether he would sign it. He said he would consult with Secretary of Commerce Harry Hopkins, who was Works Progress Administrator at the time, of many of the activities which provoked the Hatch bill, and Frank Walker, Secretary of the Democratic National Committee.

President Roosevelt signed the Hatch Act on August 2, 1939, and sent to Congress a message giving his interpretation of the law. He also recommended (1) that persons in the District of Columbia and nearby Maryland and Virginia should be allowed to run for local offices and (2) that the law be extended to cover State and local employees who are candidates for Federal office. Roosevelt contended (on advice of the Attorney General) that the new law was constitutional in that the Federal Government may prescribe qualifications for its employees but such qualifications cannot interfere with free speech or exercise of the franchise. He said Americans will not stand for "any gag act." Noting that Members of Congress and employees of the legislative branch of the Government are exempt from the provisions of the act (he meant exempt from some sections of the act) he contended (again on advice of the Attorney General) that any Government employee has the right to publicly answer any attack made on him, whether the attack is made by press or radio or by a Member of Congress or by an employee of the Congress. (See S. Doc. 105, 76th Cong., message on S. 1871, August 2, 1939; also see the Public Papers, etc., vol. 8 (No. 100, the Hatch Act) pp. 410–415.)

Section 9 of the Hatch Act is probably the most controversial and its meaning has been subjected to various interpretations. This section prohibits an employee of the executive department to use his official authority or influence to interfere with the result of an election. It also prohibits an officer or employee of the executive department to take an active part in political management or campaigns. Such persons, however, retain their right to vote and to express their opinions on political subjects. The prohibitions do not apply to (1) the President or Vice President, (2) persons paid from appropriations for the office of the President, (3) heads or assistant heads of departments, or (4) officers appointed by the President with the advice and consent of the Senate, and who determine policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws (53 Stat. 1148; 5 U.S.C. 118i). This section 9 is a rewording of civil service rule I as it then existed as applied to employees covered by civil service. (Section 2 of the act was a rewording of civil service rule I to make the same prohibitions apply to persons in administrative positions on federally financed projects. S. Rept. 2, pt. 1, p. 7, 76th Cong. This was amended in 1940 to also cover State and municipal employees whose salaries are paid in part from Federal funds. The penalty here is more severe. 54 Stat. 767; 18 U.S.C. 595.)

Civil service rule I, section 1, at the time of enactment of the Hatch Act read as follows:

"Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express privately their opinions on all political subjects, shall take no active part in political management or in political campaigns."

This rule has been recodified by the Civil Service Commission and now appears as section 4.1 of rule IV, as follows:

"RULE IV. PROHIBITED PRACTICES

"SEC. 4. 1. *Prohibition against political activity.*—No person employed in the executive branch of the Federal Government, or any agency or department thereof, shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No person occupying a position in the competitive service shall take any active political part in political management or in political campaigns, except as may be provided by or pursuant to statute. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. (E. O. No. 10577, Nov. 23, 1954, 19 F.R. 7521; U.S.C. Cong. and Adm. News, 1954, No. 20, p. 7898.)"

It will be noted that under the revised civil service rule employees are no longer limited to expressions on political subjects made privately. This is in conformance with the intention of Congress in striking the word "privately" from section 9 so that the provision as it passed the House and became law read: "to express their opinions on all political subjects." (See C.R. vol. 84, pp. 9623-9625.)

On August 5, 1939, Senator Hatch gave his interpretation of section 9 of the act.

"POLITICAL ACTIVITY UNDER SECTION 9—SENATE BILL 1871

"The law applies to officials and employees in the executive branch of the Government.

"In addition to the President and Vice President, the following are excepted from the prohibitions of the law:

"(*a*) Heads and assistant heads of executive departments.

"(*b*) Officials who determine policies of the Government.

"(*c*) Officials and employees of the legislative branch of the Government.

"The pertinent language in section 9 is practically a duplication of the civil service rule prohibiting political activity of employees under the classified civil service. The section provides in substance, among other things, that no such officer or employee shall take any active part in political management or in political campaigns.

"The same language of the civil service rule has been construed as follows:

"1. Rule prohibits participation not only in national politics, but also in State, county, and municipal politics.

"2. Temporary employees, substitutes, and persons on furlough or leave of absence with or without pay are subject to the regulation.

"3. Whatever an official or employee may not do directly he may not do indirectly or through another.

"4. Candidacy for or service as delegate, alternate, or proxy in any political convention is prohibited.

"5. Service for or on any political committee is prohibited.

"6. Organizing or conducting political rallies or meetings or taking any part therein except as a spectator is prohibited.

"7. Employees may express their opinions on all subjects but they may not make political speeches.

"8. Employees may vote as they please, but they must not solicit votes; mark ballots for others; help to get out votes; act as checkers, markers, or challenger for any party or engage in other activity at the polls except the casting of his own ballot.

"9. An employee may not serve as election official unless his failure or refusal so to do would be a violation of State laws.

"10. It is political activity for an employee to publish or be connected editorially, managerially, or financially with any political newspaper. An employee may not write for publication or publish any letter or article signed or unsigned in favor of or against any political party, candidate, or faction.

"11. Betting or wagering upon the results of a primary or general election is political activity.

"12. Organization or leadership of political parades is prohibited but marching in such parades is not prohibited.

"13. Among other forms of political activity which are prohibited are distribution of campaign literature, assuming political leadership, and becoming prominently identified with political movements parties or factions or with the success or failure of supporting any candidate for public office.

"14. Candidacy for nomination or for the election to any national, State, county, or municipal office is within the prohibition.

"15. Attending conventions as spectators is permitted.

"16. An employee may attend a mass convention or caucus and cast his vote but he may not pass this point.

"17. Membership in a political club is permitted, but employees may not be officers of the club nor act as such.

"18. Voluntary contributions to campaign committees and organizations are permitted. An employee may not solicit, collect, or receive contributions. Contributions by persons receiving remuneration from funds appropriated for relief purposes are not permitted. (C.R. vol. 84, p. 11154; also vol. 86, p. 2943.)"

During the 3d session of the same 76th Congress in which the original Hatch Act had been adopted, Senator Hatch, on January 8, 1940, offered an amendment (S. 3046) to that act designed to extend its provisions so as to include State and local officers and employees of federally financed projects. This bill (S. 3046) after being amended several times finally was approved by President Roosevelt on July 19, 1940; 54 Stat. 767. Commenting on the Hatch amendment at his White House press conference on March 5, 1940, the President said it always had seemed to him that if the Hatch Act applies to one type of Federal employee who receives his whole salary from Federal funds, it should apply to those who receive part of their pay from the Federal Government (New York Times, Mar. 6, 1940, p. 4, col. 1). Later when the bill seemed apparently bottled up in the House Judiciary Committee, the President called a special conference on May 6, 1940, at which he gave his unqualified endorsement to the bill and took the lead in seeking to have the bill discharged from committee and brought to a vote (Ibid., May 7, 1940, p. 1, col. 1). The bill passed the House July 10, 1940, and was signed by the President on July 19, 1940.

This act of July 19, 1940 extended coverage to include not only employees of the District of Columbia but also employees of federally financed projects of States and municipalities. The Civil Service Commission was given authority to exempt elections in nearby Maryland and Virginia and other federally impacted areas from the partisan political activity prohibitions. The act specifically permitted political activity on the part of both Federal and State employees in connection with nonpartisan elections. The act also placed a $5,000 ceiling on contributions to candidates for Federal office on the part of anyone except State or local committees, which incidentally are also exempt from the prohibitions of the Corrupt Practices Act. A prohibition was also placed on contributions to any political committee or candidate by persons or firms having contracts with the Federal Government. This act of 1940 also prohibits any person or corporation from buying any goods, commodities, advertising or articles of any kind where the proceeds inure to the benefit of a candidate for Federal office. The act also placed a ceiling of $3 million on receipts and a similar ceiling on expenditures during any year by political committees.

On October 24, 1942, officers and employees of educational and religious organizations supported in whole or in part by the Federal Government were exempt from those sections of the act prohibiting political activity (56 Stat. 986).

On March 27, 1942, part-time Federal officers and employees who were serving without compensation or with nominal compensation in connection with the then existing war effort were made exempt from liability for political activities forbidden by section 9 of the Hatch Act. The exemption, however, did not extend to those persons serving in any capacity relating to the procurement or manufacture of war material. The exemption was temporary and expired March 31, 1947 (56 Stat. 181).

On August 8, 1946, employees of the Alaska Railroad residing in municipalities on the line of the railroad were made exempt from section 9(a) of the Hatch Act to the extent that they may take an active part in political management or campaigns in respect to activities involving the municipality in which they reside (60 Stat. 937, 5 U.S.C. Supp. III, sec. 118i).

In 1944, two acts were passed by Congress, adding sections 22–25 to the Hatch Act and designed to regulate the distribution of political propaganda to members of the Armed Forces during World War II. These acts expired June 30, 1947, 6 months after the termination of hostilities (58 Stat. 148–149, 727–728; Presidential proclamation No. 2714, Dec. 31, 1946).

In 1948, during its 2d session, the 80th Congress passed H.R. 3190 which revised, codified, and enacted into positive law title 18 of the United States Code, entitled "Crimes and Criminal Procedure," (Public Law 772, June 25, 1948, 62 Stat. 683). Since the Hatch Act had been previously codified in title 18, most sections were retained in the new title 18. Other sections which had previously appeared in title 18 were subsequently transferred to title 5 "Executive Departments and Government Officers and Employees," and appear in title 5 of supp. III (1950) of the 1946 edition of the United States Code. With this recodification and transfer of sections, numerous changes were made in phraseology for clarity. See 80th Cong., H. Rept. 304 on H.R. 3190.

In 1950, section 9 of the Hatch Act was so amended as to leave it with the discretion of the Civil Service Commission as to whether a violation of the act warrants removal. Previously, removal was mandatory. Also under the 1950 law the Commission is required to report to the President for transmittal to Congress the names, addresses, and nature of employment of all persons with respect to whom action has been taken together with a statement of the facts and penalty imposed (81st Cong., 2d sess., Public Law No. 732, Aug. 25, 1950, ch. 874, sec. 1, 64 Stat. 475). (Also see H. Rept. 2712 and H. Doc. 630, message of the President returning without approval the bill (H.R. 1243) to amend the Hatch Act, June 30, 1950.)

On August 20, 1954, President Eisenhower vetoed a bill (S. 1611) regulating election in the District of Columbia of national committeemen and committeewomen and delegates to national political conventions. That part of the bill (S. 1611) objectionable to the President was a provision amending the Hatch Act so as to permit Federal employees in the District of Columbia to actively participate in the nomination and election of committeemen and delegates. Any extension of political privileges should not be confined to a few employees in the District but should be extended on a nationwide basis. (See S. Doc. 155, 83d Cong.)

SAMUEL H. STILL,
American Law Division, Legislative Reference Service, Library of Congress.

FEBRUARY 2, 1960.

EXEMPTION OF TEACHERS FROM PROVISIONS OF THE HATCH ACT

Teachers are presently exempted from the provisions of sections 9(a), 9(b), and 12 of the Hatch Act. Exemption was brought about by enactment of the act of October 24, 1942, known as the Brown amendment. Senator Prentiss M. Brown of Michigan had originally offered his amendment in 1940 at the time the provisions of the Hatch Act were extended to certain States and local employees, but it was never voted upon.

However, once the Hatch Act was extended to cover certain State employees, the attorneys general of Ohio and Minnesota ruled that teachers in land grant colleges and in other schools receiving Federal funds were subject to the act. Subsequently Congress enacted the Brown amendment adding section 21 to the Hatch Act as follows:

"SEC. 21. *Activities of employees of educational and research Institutions, etc.* (Added October 24, 1942, ch. 620, 56 Stat. 986; 5 U.S.C., sec. 118k–1.)

"SEC. 21. Nothing in sections 9(a) or 9(b), or 12 of this Act shall be deemed to prohibit or to make unlawful the doing of any act, by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any State or political subdivision thereof, or by the District of Columbia or by any Territory or Territorial possession of the United States; or by any recognized religious, philanthropic, or cultural organization."

Following is the legislative history of the Brown amendment.

By an act of July 19, 1940, the provisions of the Hatch Act of August 2, 1939, were extended to certain officers and employees of the several States and the District of Columbia (53 Stat. 1147, Am. 54; Stat. 767). While the act of July 19, 1940, was being debated in the Senate on March 11, 1940, Mr. Prentiss M. Brown of Michigan offered an amendment exempting from coverage by the act of August 2, 1939, "educational religious, eleemosynary, philanthropic, or cultural institutions, establishments, and agencies, together with the officers and employees thereof." (Congressional Record, vol. 86 pp. 2520, 2615, 2621; Senate bills, 76th Cong., pt. 14 (S. 3046).)

Upon assurance from Senator Hatch that Attorney General Frank Murphy had advised him that political activities by teachers were not covered by the bill then under consideration (S. 3046) Senator Brown did not press for a vote on his amendment to exempt schoolteachers. (Congressional Record, vol. 86, pp. 2709 (March 12, 1940).)

Following enactment of the act of July 19, 1940, it soon became apparent that considerable differences of opinion existed as to whether or not teachers were exempted from the Hatch Act provisions. Consequently Senator Brown sought again to amend the law to specifically have teachers exempted by introducing a bill (S. 2471) on April 20, 1942, with an accompanying statement including documents (Congressional Record, vol. 88, pp. 3528–3529):

"POLITICAL ACTIVITIES OF TEACHERS IN THE PUBLIC SCHOOLS AND EMPLOYEES OF OTHER INSTITUTIONS

"Mr. BROWN. Mr. President, I ask unanimous consent to introduce a bill amending the so-called Hatch Act, which, if enacted, will eliminate the prohibition against political activities by teachers in the public schools.

"I also ask consent that there be printed at this point in the Record two letters from the National Education Association, as well as a statement from the National Commission for the Defense of Democracy Through Education.

"The VICE PRESIDENT. The bill will be received and appropriately referred, and, without objection, the letters and statement will be printed in the Record.

"There being no objection, the bill (S. 2417) to amend the act entitled 'An act to prevent pernicious political activities,' approved August 2, 1939, as amended, with respect to its application to officers and employees of educational, religious, eleemosynary philanthropic, and cultural institutions, establishments, and agencies, commonly known as the Hatch Act, was read twice by its title and referred to the Committee on Privileges and Elections.

"(The letters and statement presented by Mr. Brown are as follows:)

"NATIONAL COMMISSION FOR THE
DEFENSE OF DEMOCRACY THROUGH EDUCATION,
Washington, D.C., March 11, 1942.

"The Honorable PRENTISS M. BROWN,
"*Senate Office Building,*
"*Washington, D.C.*

"DEAR SENATOR BROWN: I have just returned from the San Francisco Convention of the National Education Association with the conviction that the teachers of practically every State in the Union will fight vigorously for the passage of the Brown amendment to the Hatch Act, and are desirous of following the guidance of our commission in this matter.

"I was indeed sorry to learn of Senator Hatch's accident. I hope you have been able to get his consent to advance your amendment in his absence. I would appreciate very much any information you have concerning the advancement of this bill so that appropriate action may be taken by the teachers in the various States.

* * * * * * *

"Sincerely yours,

"DONALD DUSHANE.

"NATIONAL COMMISSION FOR THE
"DEFENSE OF DEMOCRACY THROUGH EDUCATION,
"*Washington, D.C., April 9, 1942.*

"The Honorable PRENTISS M. BROWN,
"*Senator From Michigan,*
"*Senate Office Building, Washington, D.C.*

"DEAR SENATOR BROWN: I am very much pleased with the communication you have received from Senator Hatch expressing his approval of action on your amendment. Since my last interview with you I have talked to a number of leading school men of the country and I am sure we are ready to proceed in support of your amendment as soon as it is ready for action.

* * * * * * *

"Sincerely yours,

"DONALD DUSHANE.

"THE HATCH ACT AND THE SCHOOLS

"The Hatch Act must be amended to safeguard freedom of learning and teaching. The original act, passed in 1939, was an outgrowth of alleged abuses of Federal relief funds in the various States. After a brief experience it was claimed that some of the abuses were caused by State employees receiving part pay from Federal sources, so the act was amended in 1940 by extending it to certain State officers and employees.

"Although teachers belong to a profession that does not condone or indulge in corrupt political practices, and although the record of debate in Congress does not indicate that there was any belief that teachers needed to be restrained from improper political procedure, yet the Hatch Act, as finally enacted and interpreted, interferes with the long recognized political rights of many thousands of American teachers.

"Some of the provisions of the Hatch Act seek to prevent political corruption and are in no sense injurious to the teaching profession, and in fact, in some cases provide necessary protection. There are other sections, however, which are definitely objectionable to teachers, which will limit their effectiveness, and which will interfere with the full functioning of teachers as protectors and citizenship instructors of millions of students.

"Teachers have been slow to realize the full significance and the wide applications of the Hatch Act. It was at first believed that it covered only teachers in land-grant colleges and vocational teachers in federally aided systems. As questions have arisen concerning the extent of this law the U.S. Civil Service Commission has made rulings and it now appears that in view of recent interpretations the Hatch Act can be, and probably will be, construed to apply to a majority of American teachers.

"One of the basic purposes of the defense commission is to protect teachers from conditions which interfere with their full functioning. The commission believes that certain sections of the Hatch Act interfere with the protection of public schools, interfere with the freedom of teaching, and will be used as a means of threatening, intimidating, and coercing leaders, administrators, and other members of the teaching profession. The defense commission will make every effort to bring about such amendments of the Hatch Act as will restore and protect teachers' necessary rights and freedoms.

"Three sections should be amended

"A careful study of the Hatch Act reveals three sections which, from the standpoint of the teaching profession, are objectionable and should be amended:

"Section 2 of the act, although not yet adjudicated by the courts, will probably prevent numerous members of the teaching profession from discussing Federal policies involved in any election, or the qualifications of candidates for Federal office in their classrooms or teachers' meetings.

"Likewise, section 9(a) may be so interpreted as to discourage all teachers employed by the Federal Government or the District of Columbia from discussing Federal issues involved in an election or the merits of the candidates for Federal office in their classrooms or teachers' meetings. These teachers are specifically prohibited from taking any part in political management or in political campaigns.

"Section 12 prohibits any State or local teacher or school official, any part of whose compensation is derived from Federal loans or grants, from doing or saying anything, as teachers, which will influence any nomination or election. This section also prevents any participation by such teachers in political management or political campaigns. Teachers affected by this act cannot become candidates for any political office.

"To whom does the Hatch Act apply?

"The law authorized the U.S. Civil Service Commission to interpret and enforce various provisions of the act. Based on actions by the U.S. Civil Service Commission up to the present time, it may be said authoritatively that:

"1. All employees of land-grant colleges and universities, except possibly those engaged in building construction, are included in the provisions of the Hatch Act.

"2. All vocational teachers and employees, any part of whose compensation comes from Federal aid, are likewise included.

"3. All teachers whose compensation is in any part derived from the income of Federal grazing and forest lands are subject to the Hatch Act.

"4. In view of prior decisions, it is probable that all teachers whose school systems receive any Federal vocational funds will be subject to the Hatch Act, unless such funds are accounted for separately from other school funds.

"5. In the light of prior decisions it is probable that teachers, any part of whose income comes from land grants from the Federal Government to State school systems, will be included under the Hatch Act. Such an interpretation would include the provisions of the Hatch Act a majority of teachers in the United States.

"Why teachers should be excluded

"Following is a brief statement of reasons why teachers should be excluded from sections 2, 9(a), and 12 of the Hatch Act:

"1. Teachers belong to a profession which disapproves of and does not engage in pernicious political practices, and they would continue to be good citizens without the Hatch Act.

"2. This act is discriminatory in that it applied to some teachers and not to others.

"3. The Hatch Act interferes with the freedom of teachers to discuss political issues freely and without Federal political control or censorship. In order to train our youth for understanding and participation in American political life it is of vital importance that the teachers' freedom to teach the truth shall not be interfered with.

"4. If teachers are to train effectively our youth for citizenship they must have full rights of citizenship themselves.

"5. American public schools are dependent upon the understanding and loyalty of our citizens for their financial support and their development and improvement. Very often questions involving the welfare of the schools are issues in political elections. Frequently candidates who are enemies of education run for political office. The integrity and often the very existence of schools depend upon the political activity of members of the teaching profession. It is part of their professional obligation to keep the needs and problems of the schools before the voters of their communities and States.

"6. Under the Federal Constitution the management and control of education is a State function. A comparison between American schools and those of totalitarian countries would seem to indicate the wisdom of local and State control of education. The partial disfranchisement and the muzzling of local and State teachers by the Federal Government is as unnecessary and unjustifiable as it is dangerous and alarming.

"The Defense Commission believes that sections 2, 9(a), and 12 of the Hatch Act should not apply to members of the teaching profession and will make every effort to have this law amended."

In reporting Senator Brown's bill, S. 2471, the Senate Committee on Privileges and Elections stated (S. Rept. 1348, 77th Cong.):

"This bill, S. 2471, was introduced by Senator Brown of Michigan on April 20, 1942, and was referred to this committee. It is substantially the same as a bill, S. 1025, also introduced by Senator Brown on March 3, 1941, which had also been referred to this committee.

"On May 5, 1942, a hearing was held before the Committee on Privileges and Elections and Senator Brown together with six additional witnesses were heard. Senator Brown stated that the amendment is substantially the same as the former one introduced and advocated by him during the consideration of the second Hatch Act of March 1940, and that it was eliminated principally because of the expressed opinion of Senator Hatch, and others, that the provisions of the Hatch Act did not apply to teachers. After the enactment of the act the attorneys general of Ohio and Minnesota ruled that teachers in land-grant colleges and in schools being assisted under the Smith-Lever Act and Bankhead-Jones Act were subject to the act.

"Other witnesses favoring the legislation and who made statements at the hearing were Prof. Donald DuShane, National Education Association, 1201 16th Street NW., Washington, D.C., secretary of the Commission for the Defense of Democracy Through Education; Miss Mabel Studebaker, member of the board of directors, classroom teacher's department, National Education Association, Erie, Pa., Dr. James K. Pollock, professor of political science, University of Michigan; Dr. Thomas F. Green, Jr., American Association of University Professors, 1155 16th Street NW., Washington, D.C., and Dr. Alonzo Myers, New York University, chairman of the Commission for the Defense of Democracy Through Education.

"Witnesses opposing the legislation were Gen. Amos A. Fories (U.S. Army, retired), representing Friends of the Public Schools of America, with headquarters in Chicago, Ill.; and Mr. Elmer E. Rogers, 1735 16th Street NW., Washington, D.C., who later submitted a paper which was included in the transcript of the hearings.

"The principal arguments in favor of the bill are set forth in the following excerpts from the statements of witnesses:

"Senator Brown, of Michigan:

" 'I state two reasons for my advocacy of this bill. First, I think it is wrong to take out of political life one of the most beneficial elements in it, the teaching profession. They are high-minded people; they are students of the science of politics and government, and the people of any State and all other States are entitled to the benefit of their opinions and their active participation in politics.

" 'Second, the law is most discriminatory in that it applies to a considerable class of teachers and does not apply to another considerable class of teachers because there can be no constitutional justification for reaching that class of teachers whose salary or compensation is not in any way contributed to by the Federal Government.

* * * * * * *

" 'I do believe that we should pass this amendment which will remove this cloud from the teaching profession and give the general public the benefit of participation by teachers in political activity.

" 'I conclude with pointing out the principal things that teachers of the class I have mentioned (in schools and institutions receiving Federal aid) are unable to do:

" 'They may not be candidates for any public office, with the exception of local or municipal offices in a few localities.

" 'A teacher may not be a delegate to a political convention.

" 'A teacher may not serve on a political committee.

" 'A teacher may not make a political speech.

" 'A teacher may not serve as an election official.

" 'A teacher may not be connected, editorially or financially, with any political newspaper, whatever that may be, nor may he write for publication or publish any letter or article in favor of or against any political candidate, party, or faction.

" 'A teacher may not be a candidate for nomination or election to any National, State, county, or municipal office.

" 'A teacher may attend a caucus and cast his or her vote, but may not tell why.

" 'A teacher may not be a member of any political club whatsoever.

" 'Those are the particular items I have picked out as being unduly oppressive on the profession (transcript of hearings, pp. 5–8).' "

SAMUEL H. STILL,
American Law Division, Legislative Reference Service, Library of Congress.
FEBRUARY 18, 1960.

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